

### **Legislative Document Room Elimination**

1           SECTION 4. Section 18A of chapter 3 of the General Laws is hereby repealed.

### **Shared Services for Executive Offices**

1           SECTION 5. Chapter 6A of the General Laws is hereby amended by inserting after section 7 the  
2 following section:-

3           Section 7A. Notwithstanding any general or special law to the contrary, each secretary may  
4 identify administrative processing activities and functions common to the state agencies within the  
5 executive office and may designate such functions as core administrative processing functions. To improve  
6 administrative efficiency and preserve fiscal resources, the secretary may direct that core administrative  
7 processing functions be performed by the executive office or by state agencies designated by the secretary  
8 to perform those functions. Common activities and functions that may be designated as core administrative  
9 processing functions shall be limited to human resource functions, including payroll processing,  
10 information technology services and leasing and facility management services. Upon designation of a  
11 function as a core administrative processing function, the secretary may direct that employees of each state  
12 agency who perform those functions be transferred to the executive office or to a state agency designated  
13 by the secretary to perform core administrative processing functions. Nothing in this section shall waive the  
14 responsibility of each agency head to certify obligations and expenditures for appropriations and other  
15 available funds of the agency pursuant to section 3 of chapter 7A, the responsibilities of an agency head  
16 pursuant to state finance laws including, but not limited to, sections 19, 20, 24, 26 and 27 of chapter 29, and  
17 the responsibility of an agency head to certify work by employees of the agency pursuant to section 31 of  
18 chapter 29. An agency head shall not delegate agency head signature authorization to an individual who is  
19 not an employee of the agency. The executive office or any state agency designated to perform core  
20 administrative processing functions may charge the state agencies that receive such services for the  
21 reasonable costs of providing the services. An employee transfer that occurs in connection with the  
22 consolidation of core administrative processing functions within the executive office or state agencies shall  
23 not: (a) impair the civil service status of the transferred employee who immediately before the effective  
24 date of this act either holds a permanent appointment in a position classified under chapter 31 or has tenure  
25 in a position by reason of section 9A of chapter 30; or (b) impair or change an employee's status, rights or  
26 benefits under chapter 150E; provided, that no employee or funding subject to this section shall be  
27 transferred without notification to the house and senate committees on ways and means within 30 days; and  
28 provided further, the notification shall include the title or position of the transferred employee and the  
29 amount of funding transferred.

### **Massachusetts Department of Transportation Procurement**

1           SECTION 6. Subsection (a) of section 5 of chapter 6C of the General Laws, as appearing in  
2 section 8 of chapter 25 of the acts of 2009, is hereby amended by striking out the second paragraph and  
3 inserting in place thereof the following paragraph:-

4           Notwithstanding any general or special law to the contrary, the department, including the  
5 Massachusetts Bay Transportation Authority, shall enter into agreements under sections 22, 22A and 22B  
6 of chapter 7; provided however, the department shall adhere to good business practices to be determined by  
7 the department in its procurement of equipment, materials, property, supplies and services.

1           SECTION 7. The third sentence of section 15 of said chapter 6C, as so appearing is hereby  
2 amended by inserting after the figure "29" the following words:- and the state purchasing agent under  
3 sections 22 and 22A of chapter 7.

### **Tuition Retention Local Option I**

1 SECTION 8. Section 9 of chapter 15A of the General Laws, as appearing in the 2008 Official  
2 Edition, is hereby amended by striking out clause (i) and inserting in place thereof the following clause:-

3 (i) review and approve student charges of the state and community colleges, pursuant to section  
4 42.

1 SECTION 9. Section 22 of said chapter 15A, as so appearing, is hereby amended by striking out  
2 clause (b) and inserting in place thereof the following clause:-

3 (b) establish all student charges, under the process set forth in section 42, as applicable. The  
4 student charges shall include fines and penalties collected pursuant to the enforcement of traffic and  
5 parking rules and regulations. The rules and regulations shall be enforced by persons in the employ of the  
6 institution who throughout the property of the institution shall have the powers of police officers, except as  
7 to the service of civil process; provided that the foregoing shall not authorize any action in contravention of  
8 the requirements of Section 1 of Article LXIII of the Amendments to the Constitution;

1 SECTION 10. Said chapter 15A of the General Laws, is hereby further amended by adding the  
2 following section:-

3 Section 42. (a) This section shall apply only to those campuses for which the local board of  
4 trustees has approved by majority vote to accept this section.

5 (b) The board of trustees of each state college and community college shall, for each academic  
6 year beginning on or after July 1, 2011, fix and establish student charges for each such college, subject to  
7 the requirements of this section. In-state student charges shall preserve affordability for residents of the  
8 commonwealth. Out-of-state student charges shall appropriately balance the financial needs of the college  
9 with the need to be competitive with peer institutions regionally. In setting student charges each state  
10 college and community college shall also consider factors including, but not limited to, the following:  
11 actual appropriations received; the Consumer Price Index; the Higher Education Price Index; tuition and  
12 fee rates at peer institutions; collective bargaining costs; funding from the commonwealth measured with  
13 reference to the funding formula established under section 15B; and making progress towards ensuring that  
14 fees constitute no more than 25 per cent of student charges. To the extent practicable, final student charges  
15 shall be established for each academic year not later than March 1 of the calendar year in which the rates  
16 shall take effect.

17 For the purposes of this section, "student charges" shall include tuition and fees that are charged to  
18 students generally for attendance at a state college or community college, but shall not include any fee or  
19 other charge established by such college that is specific to a particular course, program or activity, and shall  
20 not include any rates, rents, charges or fees set by the Massachusetts State College Building Authority.

21 (c) Beginning with the 2011-2012 academic year, each state college and community college shall  
22 submit a 5-year student charges plan to the board of higher education for the board's approval. The plan  
23 shall contain the annual student charges the college expects to approve for the college's state-supported  
24 programs, under subsection (b), for a period of no fewer than 5 academic years. The plan also shall include  
25 but not be limited to budget and enrollment projections for each year, projections for in-state and out-of-  
26 state enrollments for each year, consideration of segmental missions, and plans to ensure continuing access  
27 to the institution by residents of the commonwealth and to maintain and increase access for  
28 underrepresented student groups. The board of higher education, in considering whether to approve a plan,  
29 shall consider but not be limited to considering the same factors the campuses must consider in setting  
30 student charges under this section. For the first 5 years the board may also consider, to the extent  
31 practicable, any steps taken in the plan to ensure that fees constitute no more than 25 percent of student  
32 charges. For the second 5 years and each plan submitted thereafter, the board shall consider the progress  
33 made toward ensuring that fees constitute no more than 25 per cent of student charges. Within 120 days of  
34 the submission of a plan, the board of higher education shall either approve the plan or return it to the  
35 college with suggested changes. The approval shall require a 2/3 vote of the board of higher education. If  
36 the board of higher education does not vote on a plan within 120 days of its submission, the plan shall be

37 considered approved. A copy of the plan shall be provided to the joint committee on higher education and  
38 to the house and senate committees on ways and means at the time the plan is submitted to the board of  
39 higher education.

40 (d) If, following the approval of a state college's or community college's plan under subsection  
41 (c), the board of trustees of such college approves, for any academic year, student charges that are greater  
42 than 105 per cent of the student charges approved in such college's plan, the college shall submit such  
43 greater rate to the board of higher education for its approval, as part of an amended student charges plan.  
44 The amended plan shall describe in detail the reasons why the college's student charges are greater than the  
45 expected student charges, and provide revised or updated information on budget and enrollment projections  
46 for each year, projections for in-state and out-of-state enrollments for each year, consideration of segmental  
47 missions and plans to ensure continuing access to the institution by residents of the commonwealth and to  
48 maintain and increase access for underrepresented student groups, as necessary. Within 60 days of the  
49 submission of a revised plan, the board of higher education shall either approve the plan or return it to the  
50 college with suggested changes. The approval shall require a 2/3 vote of the board of higher education. If  
51 the board of higher education does not vote on a plan within 60 days of its submission, the plan shall be  
52 considered approved. A copy of the revised plan shall be provided to the joint committee on higher  
53 education and to the house and senate committees on ways and means at the time the plan is submitted to  
54 the board of higher education.

55 (e) A state college, community college or the board of higher education may, at its discretion,  
56 request that a plan approved under subsections(c) or (d) be re-examined and modified, in accordance with  
57 procedures established by the board of higher education. Any resulting modification shall be concurred  
58 with by the board of trustees of the affected college and by a 2/3 vote of the board of higher education.

59 (f) In implementing the requirements of subsection (c), the board of higher education shall review  
60 the plans of each state college and community college for the academic year beginning on or after July 1,  
61 2011. For subsequent academic years, the board shall develop procedures to provide for the review of state  
62 college and community college plans on a staggered basis, such that the board may review a smaller  
63 number of plans each year. These procedures may include provisions requiring a state or community  
64 college to submit an updated plan before the approval period of such college's initial plan has expired, in  
65 order to accommodate a staggered schedule.

66 (g) All student charges received by the board of trustees of a state college or community college  
67 under this section shall be retained by the board of trustees of that institution in a revolving trust fund or  
68 funds and shall be expended as the board of trustees may direct for the operation and support of the  
69 institution. Any balance in a trust fund at the end of a fiscal year shall continue to be held in the trust fund,  
70 shall remain available for expenditure in subsequent fiscal years and shall not revert to the General Fund.  
71 All such trust funds shall be subject to audit by the state auditor.

### **Recovery of Accident Payments by State Agencies I**

1 SECTION 11. Chapter 18 of the General Laws is hereby amended by striking out section 5G, as  
2 appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

3 Section 5G. (a) As used in this section, the following words shall have the following meanings  
4 unless the context clearly requires otherwise:

5 "Claimant", a person who suffers a loss from property damage, accident, illness, injury or  
6 otherwise for which monies may be provided by liability insurance, workers' compensation or any other  
7 third party.

8 "Date of the loss", the date on which the property damage, accident, illness, injury or other  
9 incident occurs.

10 "Third party", an individual, agency, program, entity or insurer including but not limited to, the  
11 claimant's own insurer, that is or may be liable to pay monies on account of the claimant's loss.

12 (b) When a claimant or a claimant's heirs, estate or legal representative receives payment from a  
13 liability or workers' compensation insurer or any other third party as the result of a loss, the claimant or the  
14 claimant's heirs, estate or legal representative shall repay to the department the total of all financial  
15 assistance benefits provided by the department on and after the date of the loss to or on behalf of the  
16 claimant, the claimant's spouse or children and any other individual the claimant is required by law to  
17 support; provided, however, that if on the date of the loss the claimant was already eligible for public  
18 assistance benefits, the claimant or the claimant's heirs, estate or legal representative shall repay only any  
19 increase in financial assistance that occurred as a result of the property damage, accident, illness, injury or  
20 other incident.

21 (c) The application for and receipt of benefits recoverable under this section, after notice to the  
22 third party, shall operate as a lien to secure repayment against monies which may be provided by the third  
23 party up to the amount of such recoverable benefits, but the department may also perfect its right to a lien  
24 against any monies which may come into possession of the claimant's attorney from the third party by  
25 giving notice to that attorney.

26 (d) A person receiving public assistance benefits recoverable under this section shall assign to the  
27 commonwealth an amount equal to the benefits so provided from the proceeds of any such claim against  
28 the third party.

29 (e) A claimant shall notify the department in writing within 10 calendar days after commencement  
30 of a civil action or other proceeding to establish the liability of a third party or to collect monies payable  
31 under accident, liability or health insurance, workers' compensation or from any other third party.

32 (f) The commonwealth shall be subrogated to a claimant's entire cause of action or right to  
33 proceed against a third party and to a claimant's claim for monies to the extent of assistance provided under  
34 chapter 118. The commonwealth shall also have a separate and independent cause of action to recover,  
35 from a third party, assistance provided to a claimant under said chapter 118, which cause of action shall be  
36 in addition to other causes of action. The commonwealth may, by attorneys employed or selected by the  
37 commonwealth, commence a civil action or other proceeding to establish the liability of a third party or to  
38 collect such moneys, or may intervene as of right in a civil action commenced by a claimant against a third  
39 party. No third party shall require written authorization from the claimant before honoring the  
40 commonwealth's rights under this section.

41 (g) Failure of a claimant without good cause to provide notice as required under this section or to  
42 provide such further information deemed necessary by the department to pursue its rights under this section  
43 shall be grounds for termination of benefits.

44 (h) Notwithstanding any general or special law or rule or regulation to the contrary, an insurer  
45 doing business in the commonwealth shall provide information requested by the department for use by the  
46 agency to recover public assistance benefits under this section.

### **Hazardous Waste Site Cleanup I**

1 SECTION 12. (a) Section 3A of chapter 21E of the General Laws, as so appearing, is hereby  
2 amended by striking out, in line 349, the words "twenty percent" and inserting in place thereof the  
3 following words:-

4 a statistically significant number, as determined by the department in consultation with the waste  
5 site cleanup advisory committee, taking into account the need for audits to ensure a high level of  
6 compliance with this chapter and the Massachusetts contingency plan and the need to target audit resources  
7 in the most efficient and effective manner,

### **Emergency Assistance I**

1           SECTION 13. Paragraph (B) of section 30 of chapter 23B of the General Laws, as appearing in  
2 section 37 of chapter 4 of the acts of 2009, is hereby amended by inserting after the second paragraph the  
3 following 2 paragraphs:-

4           Eligibility for emergency housing assistance by an otherwise eligible family shall not be impaired  
5 by prior receipt of any nonshelter benefit. The department shall make every effort to ensure that children  
6 receiving services under this section continue attending school in the community in which they lived prior  
7 to receiving services.

8           The department shall immediately provide shelter for up to 30 days to families who appear to be  
9 eligible for such shelter based on statements provided by the family to the department and any other  
10 information in the possession of the department, but who need additional time to obtain any third-party  
11 verifications reasonably required by the department; provided, however, that the department shall not  
12 impose unreasonable requirements for third-party verification and shall accept verifications from the family  
13 whenever reasonable. Shelter benefits received in accordance with the preceding sentence shall not render a  
14 family ineligible under any regulation providing that a family who previously received shelter is ineligible  
15 for shelter benefits for a period of 12 months. Families receiving such shelter benefits who are found not to  
16 be eligible for continuing shelter benefits shall be eligible for benefits pending a timely appeal pursuant to  
17 paragraph (F).

### **Emergency Assistance II**

1           SECTION 14. Said section 30 of said chapter 23B, as so appearing, is hereby further amended by  
2 adding the following paragraph:- (G) Benefits under this section shall only be provided to residents who are  
3 citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently  
4 residing in the United States.

### **Number of DIA Judges**

1           SECTION 15. (A) Section 4 of chapter 23E of the General Laws, as appearing in the 2008 Official  
2 Edition, is hereby amended by striking out, in line 3, the word "twenty-one" and inserting in place thereof  
3 the following words:- not more than 21.

1           SECTION 16. Section 5 of said chapter 23E, as so appearing, is hereby amended by striking out,  
2 in line 4, the word "six" and inserting in place thereof the following words:- not more than 6.

### **Division of Energy Solutions I**

1           SECTION 17. Section 1 of chapter 23J of the General Laws is hereby amended by inserting after  
2 the definition of "Director", inserted by section 2 of chapter 158 of the acts of 2009, the following 3  
3 definitions:-

4           "Division", the division of energy solutions established in section 12.

5           "Division director", the director of the division.

6           "Energy resources", electricity, natural gas, heating fuels, transportation fuels, demand response,  
7 efficiency and energy management services as that term is defined in section 3 of chapter 25A.

1           SECTION 18. Said section 1 of said chapter 23J is hereby further amended by inserting after the  
2 definition of "Fund", as appearing in the 2008 Official Edition, the following definition:-

3 "Local government body", a city, town, district, an aggregation of municipalities pursuant to  
4 section 134 of chapter 164, regional school district or county, or an agency or authority thereof, including a  
5 housing authority, board, commission, department or instrumentality of a city, town district, regional  
6 school district or county.

1 SECTION 19. Said section 1 of said chapter 23J, as so amended, is hereby further amended by  
2 inserting after the definition of "Revenues", as so appearing, the following 2 definitions:-

3 "State energy resource contracts", contracts executed by the division under section 12.

4 "State entities", state agencies, state authorities, quasi-public entities, state institutions of higher  
5 education and building authorities.

1 SECTION 20. Said chapter 23J is hereby further amended by adding the following section:-

2 Section 12. (a) There shall be within the center a division of energy solutions. The executive  
3 director of the center shall appoint a division director, who shall be a person of skill and experience in the  
4 field of energy procurement, to head the division. The division director shall serve at the pleasure of the  
5 executive director who shall fix the division director's compensation and terms of employment. The  
6 division director shall devote full time during business hours to the duties of the office. The division  
7 director may, subject to the general supervision of the executive director, employ other employees,  
8 consultants, agents and advisors, and shall attend meetings of the board.

9 (b)(1) The division shall promote and advance the commonwealth's public interests by acting as  
10 the lead agency, in collaboration with the center, the executive office of energy and environmental affairs,  
11 the executive office for administration and finance and the department of energy resources to reduce energy  
12 costs and greenhouse gas emissions for all state entities by: (i) establishing a statewide procurement process  
13 for energy resources; (ii) managing a statewide energy monitoring and analysis system to optimize energy  
14 usage in state-owned facilities; and (iii) recommending energy-related capital investments.

15 (2) The division shall manage these duties so as to obtain adequate, reliable, efficient,  
16 environmentally-sustainable and cost-effective energy resources.

17 (c) There shall be an advisory committee consisting of 9 individuals with an interest in and  
18 knowledge of matters related to energy procurement. The board shall consult with the advisory committee  
19 in matters related to the division and in the implementation of this section. The advisory committee shall  
20 develop objectives and procurement strategies and recommend financial controls. The advisory committee  
21 shall include: the secretary of administration and finance who shall serve as chair; the secretary of energy  
22 and environmental affairs; the commissioner of energy resources; the state purchasing agent; and 4  
23 members to be appointed by the secretary of administration and finance, 1 of whom shall be from a  
24 participating executive branch agency, 1 of whom shall represent quasi-public entities, 1 of whom shall  
25 represent participating state authorities and 1 of whom shall be an expert on energy procurement; and 1  
26 member to be appointed by the secretary of energy and environmental affairs who shall be an expert on  
27 energy management services. The members of the advisory committee shall serve without compensation,  
28 but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the  
29 performance of official duties. The advisory committee shall meet at least quarterly and at such other times  
30 as the members shall decide. A member may appoint a designee to represent that member at any such  
31 meeting.

32 (d) State entities shall procure energy resources through state energy resource contracts negotiated  
33 by the division and executed subject to this section unless granted a waiver by the division. Local  
34 governmental bodies may procure energy resources through state energy resource contracts by notifying the  
35 division in writing. Notwithstanding this subsection, a state entity or local governmental body served by a  
36 municipal lighting plant which does not supply generation service outside its own service territory or does

not open its service territory to competition at the retail level shall not procure energy resources from state energy resource contracts.

(e) The division, in consultation with the board and the advisory committee, shall establish procedures and criteria to enable a state entity, in consultation with the division, to evaluate the costs and benefits of any then-current contractual obligations for energy resources applicable to that state entity. Following the termination date of these contracts, the state entity shall procure energy through state energy resource contracts unless granted a waiver by the division director. The division director may waive the requirements of this subsection if, after consultation with the board and any applicable governing body of the state entity, the division director concludes that the costs and benefits of maintaining separate procurement contracts for the state entity achieves the best value or is in the best interests of the entity. If the division director grants a waiver, the state entity may conduct separate procurements for energy resources subject to all applicable procurement laws, regulations and policies. A state entity or local governmental body procuring energy resources through a state energy resource contract shall execute all necessary contract documents to complete the procurement.

(f) To increase efficiencies in conducting energy resource procurements for state entities and local governmental bodies, the division may:

(1) establish a statewide procurement process of energy resources for such entities;

(2) register as a load-serving entity with ISO-NE to participate in the wholesale electricity market;

(3) manage all eligible state accounts and, at the discretion of the division, accounts from participating local governmental bodies, by consolidating the supply portion of service into a single electricity and natural gas commodity load profile, respectively; and

(4) enable small accounts, as determined by the division, to participate in wholesale market purchases.

(g) To streamline energy billing for state entities and local governmental bodies which have executed contracts under this section, the division, in consultation with the department of energy resources, the executive office for administration and finance and participating state entities and local governmental bodies, may create a centralized billing system to receive all utility bills, audit for errors and provide billing to individual state agencies and accounts. Participating state entities and local governmental bodies shall provide the division with such billing information, as it may request.

(h)(1) To improve energy usage and management for state entities and achieve state energy policy objectives, the division may:

(i) utilize an energy management system to monitor and analyze the consumption of energy procured through state energy resource contracts in facilities used by state entities;

(ii) analyze data from the energy management system, energy audits and other sources to identify energy-efficiency investment opportunities;

(iii) identify all existing state-owned energy generation assets and develop a plan to optimize their value; and

(iv) establish equitable means to distribute energy savings to state entities.

(2) The division may develop a similar energy usage and management program for participating local governmental bodies and may utilize the systems and methods set forth in this subsection in consultation with the green communities division of the department of energy resources.

(i) To identify appropriate capital investments in the state facility energy infrastructure, the division, in consultation with the executive office for administration and finance, may develop recommendations that:

(1) establish economic criteria to be applied in making capital investments in identified energy efficiency opportunities;

(2) identify capital resources, either through existing bonding authority or other sureties or resources to fund energy-efficiency improvements and distributed-energy generation; and

(3) utilize energy cost-savings to finance, in whole or in part, such capital improvements.

(j) The division may purchase, at wholesale or retail, energy resources on behalf of a state entity or participating local governmental body at the lowest reasonable cost consistent with this section, subject to compliance with applicable delivery tariffs of the electric distribution companies and any applicable federal tariffs. To the extent necessary or convenient, the division may become a direct market participant in the market system of ISO-NE, as defined in section 1 of chapter 164, and the division may do all things necessary, convenient or desirable to provide electricity under this section. The division may provide the purchased energy resources to state entities or participating local governmental bodies and execute transactions in the ISO-NE market system to manage the supply portfolio, but shall not make retail sales to other parties. Nothing in this section shall change the relevant terms of existing distribution company tariffs with respect to the provision of distribution services to individually metered accounts.

(k) The division may purchase, at wholesale or retail, energy resources on behalf of a state entity or participating local governmental body at the lowest reasonable cost consistent with this section, subject to compliance with applicable delivery tariffs of the natural gas distribution companies and any applicable federal tariffs. The division may do all things necessary, convenient or desirable to provide natural gas supply service under this section. The division may provide the purchased energy resources to state entities or participating local governmental bodies and execute transactions to manage the supply portfolio, but shall not make retail sales to other parties. Nothing in this section shall change the relevant terms of existing distribution company tariffs with respect to the provision of distribution services to individually metered accounts.

(l) The center shall report annually on January 1 to the board, the clerks of the senate and house of representatives, the governor and the participating state entities and local governmental bodies on the operations of the division. The annual report shall include, but not be limited to, a description of the performance of the procurement program and contracts executed under this section.

(m) The division shall adopt regulations and procedures to carry out this section.

#### **Payments to MBTA and RTAs**

SECTION 21. Section 2ZZZ of chapter 29 of the General Laws, as appearing in section 1 of chapter 35 of the acts of 2009, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) The following amounts shall be transferred annually from the fund to the Massachusetts Transportation Trust Fund, from which the Massachusetts Department of Transportation shall pay not less than: (1) \$160,000,000 to the Massachusetts Bay Transportation Authority or any fund controlled by the authority in each fiscal year; and (2) \$15,000,000 to regional transit authorities organized under chapter 161B or predecessor statutes in each fiscal year.

#### **Commonwealth Substance Abuse Treatment and Prevention Fund**



1 SECTION 22. Said chapter 29 is hereby further amended by inserting after section 2AAAA the  
2 following section:-

3 Section 2BBBB. There shall be established and set up on the books of the commonwealth a  
4 separate fund to be known as the Commonwealth Substance Abuse Treatment and Prevention Fund. The  
5 fund shall be credited with all sales tax revenues collected from the sale of alcoholic beverages under  
6 chapter 64H. Amounts credited to the fund shall be expended, subject to appropriation, to support  
7 substance abuse treatment and prevention services.

### **Capital Gains Revenue**

1 SECTION 23. Said chapter 29 is hereby further amended by inserting after section 5F the  
2 following section:-

3 Section 5G. Notwithstanding any general or special law to the contrary, the department of revenue  
4 shall report by November 30 to the state comptroller, the executive office for administration and finance  
5 and the house and senate committees on ways and means tax revenues estimated to have been collected  
6 during the preceding fiscal year from capital gains income; provided, however, that beginning October 31  
7 and quarterly thereafter the department of revenue shall certify to the state comptroller the amount of tax  
8 revenues estimated to have been collected during the preceding quarter from capital gains income. If the  
9 department of revenue certifies that the amount of tax revenues estimated to have been collected from  
10 capital gains income exceeds \$1,000,000,000 in a fiscal year, the comptroller shall transfer quarterly any  
11 amount that exceeds \$1,000,000,000 collected during that fiscal year to the Commonwealth Stabilization  
12 Fund established in section 2H; provided, however, that the amounts to be transferred quarterly shall be  
13 based on the amount of capital gains revenue collected in excess of projected quarterly benchmarks;  
14 provided further, that any transfers shall be made before the certification of the consolidated net surplus for  
15 the previous fiscal year as provided in section 5C; and provided further, that 5 per cent of any amount  
16 transferred from the Commonwealth Stabilization Fund under this section shall be transferred to the State  
17 Retiree Benefits Fund established in section 24 of chapter 32A.

### **Clarifying Recording Requirements at Registries of Deeds**

1 SECTION 24. Chapter 36 of the General Laws is hereby amended by striking out section 14, as  
2 appearing in the 2008 Official Edition, and inserting in place thereof the following section:

3 Section 14. Each register shall keep a record, in book or electronic form, into which the register  
4 shall enter recording information for all instruments accepted for record, in the order in which they are  
5 recorded. Upon recording of an instrument, the following information shall be entered into the record: the  
6 day, hour and minute when the register assigns an instrument number, or book and page number, as the  
7 case may be; the instrument number, or book and page number, so assigned; the names of the grantors and  
8 grantees in the instrument; and the city or town in which the land lies.

9 No instrument received by the register shall be considered recorded until the register assigns to the  
10 instrument an instrument number, or book and page number, as the case may be.

11 Any change or correction made to the record shall be accessible to the public in the particular  
12 registry district in which the affected land lies. Such change or correction shall be maintained by the  
13 register as part of the record for public inspection during registry business hours at each office in the  
14 registry district. Any change or correction to the record shall document the nature and date of the change  
15 or correction.

### **Extending the Massachusetts Historic Rehabilitation Tax Credit I**

1 SECTION 25. Section 6J of chapter 62 of the General Laws, as so appearing, is hereby amended  
2 by striking out, in lines 36 and 37, the words "6 year period beginning January 1, 2006, and ending

December 31, 2011” and inserting in place thereof the following words:- 12-year period beginning January 1, 2006, and ending December 31, 2017.

#### **DOR Administrative Provisions to Facilitate Collections I**

SECTION 26. Section 17 of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) A partner's distributive share of an item of income, loss, deduction or credit shall be determined by the partnership agreement, but the distributive share shall be determined in accordance with the partner's interest in the partnership, determined by taking into account all facts and circumstances, if : (1) the allocation to a partner under the agreement of income, gain, loss, deduction or credit, or any item thereof, has no substantial economic effect; or (2) the partnership agreement does not provide as to the partner's distributive share of income, gain, loss, deduction or credit, or item thereof. The partner shall include the distributive share of income, loss, deduction or credit in the partner's return for the taxable year during which or with which the taxable year of the partnership ends. Except as the context otherwise requires and subject to rules or regulations that the commissioner may adopt, the determination of a partner's distributive share shall take into account rules and principles developed under the Code and any regulations promulgated thereunder, and adjusted as required or appropriate to properly reflect income and other tax items for Massachusetts tax purposes.

#### **DOR Administrative Provisions to Facilitate Collections II**

SECTION 27. Chapter 62C of the General Laws is hereby amended by inserting after section 24 the following section:-

Section 24A. (a) Tax treatment of pass-through entity items shall be established at the entity level. The commissioner may audit, in a unified proceeding, a pass-through entity whose members or indirect owners are subject to tax under chapter 62 or 63. Pass-through items of entities subject to unified audit procedures shall be treated consistently by the pass-through entity and all members or indirect owners of the pass-through entity, except to the extent that a taxpayer member or indirect owner makes a declaration of inconsistency with its original return. For purposes of this chapter, the entity shall be a taxpayer.

(b) The statute of limitations for assessing tax with respect to a pass-through entity item for an entity's taxable year shall not expire before the latest of: (1) 3 years after the later of the date on which the entity's return for the taxable year was filed or the last day for filing the entity's return for that year, without extensions; or (2) an assessment period established in section 26 applicable to a taxpayer member or indirect owner. Subsections (d) and (h) of section 26 shall apply to returns filed by a pass-through entity. A member or indirect owner of a pass-through entity may file a request for an adjustment of tax attributable to any pass-through entity item for a taxable year within 3 years after the later of the date on which the entity's return for the taxable year was filed or the last day for filing the entity's return for that year, without extensions; provided, however, that no such request shall be filed after the commissioner has issued a final entity administrative adjustment. Partial or full denial of a request for adjustment of tax shall be treated as a refusal to abate or refund tax for the purposes of section 39.

(c) Assessment of a deficiency attributable to any pass-through entity item against members or indirect owners of entities subject to unified audit proceedings shall be made only after entity-level proceedings have been completed. Matters determined in a unified audit proceeding shall not be subject to dispute by the individual members or indirect owners. The commissioner shall establish by regulation the types of pass-through entities subject to unified audit proceedings which may include, but shall not be limited to, partnerships and S corporations and the requirements imposed on these entities, including the

26 designation of a tax matters partner. So far as practicable, these requirements shall be based on federal  
27 rules.

### **DOR Administrative Provisions to Facilitate Collections III**

1 SECTION 28. Section 30 of said chapter 62C, as appearing in the 2008 Official Edition, is hereby  
2 amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

3 Any person or estate failing to comply with the first paragraph shall be assessed a penalty of 10  
4 per cent of the additional tax found due and such penalty shall become part of the additional tax found due.  
5 For reasonable cause shown, the commissioner may, in the commissioner's discretion, abate the penalty in  
6 whole or in part.

### **DOR Administrative Provisions to Facilitate Collections IV**

1 SECTION 29. Section 30A of said chapter 62C, as so appearing, is hereby amended by striking  
2 out subsection (c) and inserting in place thereof the following subsection:-

3 (c) Any person failing to comply with subsection (a) shall be assessed a penalty of 10 per cent of  
4 the additional tax found due and such penalty shall become part of the additional tax found due. For  
5 reasonable cause shown, the commissioner may, in the commissioner's discretion, abate the penalty in  
6 whole or in part.

### **DOR Administrative Provisions to Facilitate Collections V**

1 SECTION 30. Section 31A of said chapter 62C is hereby amended by inserting after the figure  
2 "62B", in line 4, as so appearing, the following words:- , section 7D of chapter 64C.

### **DOR Administrative Provisions to Facilitate Collections VI**

1 SECTION 31. Section 32 of said chapter 62C, as so appearing, is hereby amended by striking out,  
2 in line 62, the words "paragraph (a) of section 26, the ninetieth" and inserting in place thereof the following  
3 words:- subsection (a) of section 26, the sixtieth.

### **DOR Administrative Provisions to Facilitate Collections VII**

1 SECTION 32. The first paragraph of paragraph (3) of subsection (e) of said section 32 of said  
2 chapter 62C, as so appearing, is hereby amended by adding the following sentence:- For purposes of this  
3 paragraph, the date of a decision by the appellate tax board shall be determined without reference to any  
4 later issuance of finding of facts and report by the board or to any request for a finding of facts and report.

### **DOR Administrative Provisions to Facilitate Collections VIII**

1 SECTION 33. Said chapter 62C is hereby further amended by inserting after section 32 the  
2 following section:-

3 Section 32A. (a) If an obligation from an installment transaction to which subsections (a) to (c),  
4 inclusive, of section 453A of the Code applies is outstanding as of the close of any taxable year, the tax  
5 imposed by chapter 62 or 63 for that taxable year shall be increased by the amount of interest equal to the  
6 product of the applicable percentage of the deferred tax liability determined under section 453A(c) of the  
7 Code, adjusted for Massachusetts differences, including use of the applicable tax rate under said chapter 62  
8 or 63, as the case may be, multiplied by the underpayment rate in effect under subsection (a) of section 32  
9 of this chapter.

(b) In the case of an installment obligation to which section 453(l)(2)(B) of the Code applies, the tax imposed by chapter 62 or 63 for any tax year in which payment on that obligation is received shall be increased by an amount of interest determined as follows: the amount of tax for that taxable year attributable to the payments on installment obligations to which this subsection applies shall be multiplied by the underpayment rate determined under subsection (a) of section 32 of this chapter in effect at the time of sale, which rate shall be applied for the period beginning on the date of sale and ending on the date that payment is received.

(c) The commissioner may issue rules or regulations analogous to those under sections 453A and 453 of the Code, adjusted to reflect Massachusetts differences or otherwise to take into account the tax laws of the commonwealth.

### **Extending the Massachusetts Historic Rehabilitation Tax Credit II**

SECTION 34. Section 38R of chapter 63 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 35 and 36, the words "6 year period beginning January 1, 2006, and ending December 31, 2011" and inserting in place thereof the following words:- 12-year period beginning January 1, 2006, and ending December 31, 2017.

### **DOR Administrative Provisions to Facilitate Collections IX**

SECTION 35. Chapter 64C of the General Laws is hereby amended by inserting after section 7C the following section:-

Section 7D. A person who fails to pay to the commissioner any sum required by this chapter to be paid shall be personally and individually liable therefor to the commonwealth. For the purposes of this section, "person," shall mean an officer or employee of a corporation, or a member or employee of a partnership or limited liability company who, as such officer, employee or member, is under a duty to pay over the taxes imposed by this chapter.

### **Tuition Retention UMass**

SECTION 36. Chapter 75 of the General Laws is hereby amended by inserting after section 8 the following section:-

Section 8A. (a) This section shall apply to the University only if the board of trustees has approved by a majority vote acceptance of this section.

(b) The board of trustees shall, for each academic year beginning on or after July 1, 2011, fix and establish student charges for the university. In-state tuition and mandatory student charges shall preserve affordability for residents of the commonwealth. Out-of-state student charges shall appropriately balance the financial needs of the university with the need to be competitive with peer institutions regionally. In establishing student charges the board shall consider factors including, but not limited to, the following: actual appropriations received; the Consumer Price Index; the Higher Education Price Index; tuition and fee rates at peer institutions; collective bargaining costs; funding from the commonwealth measured with reference to the funding formula established pursuant to section 15B; and making progress toward ensuring that fees constitute no more than 25 per cent of student charges. To the extent practicable, final student charges shall be established for each academic year not later than March 1 of the calendar year in which the rates shall take effect.

For the purposes of this section, "student charges" shall mean tuition and fees that are charged to students generally for attendance at the university, but shall not include any fee or other charge established by the university that is specific to a particular course, program or activity, and shall not include any charges for room or board.

(c) Beginning with the 2011-2012 academic year, the university shall submit a student charges plan to the board of higher education for the board's information consistent with this section. The plan shall contain the annual student charges the university expects to approve for the university's state-supported programs, under the process in subsection (b), for a period of not less than 5 academic years, which shall be the period of the plan. The plan also shall include but not be limited to budget and enrollment projections for each year, projections for in-state and out-of-state enrollments for each year, consideration of the mission of each university campus, and plans to ensure continuing access to the institution by residents of the commonwealth and to maintain and increase access for underrepresented student groups. A copy of the plan shall be provided to the joint committee on higher education, the house and senate committees on ways and means, and the secretary of education at the time the plan is submitted to the board of higher education. Notwithstanding the university's obligation to update the plan every 5 years, the university may from time to time provide a modified plan, under the process provided in subsection(b). If the board of trustees determine that a modification of the 5-year plan is necessary, the trustees shall submit the modified plan to the board of higher education, the joint committee on higher education, the house and senate committees on ways and means, and the secretary of education for their information, with an explanation for the rationale behind any modifications.

(d) All student charges received by the board of trustees under this section shall be retained by the university in a revolving trust fund or funds and shall be expended as the board of trustees may direct for the operation and support of the institution. Any balance in a trust fund at the end of a fiscal year shall continue to be held in the trust fund, shall remain available for expenditure in subsequent fiscal years and shall not revert to the General Fund. All such trust funds shall be subject to audit by the state auditor.

#### **Charter School Funding**

SECTION 37. Section 89 of chapter 71, as appearing in section 7 of chapter 12 of the acts of 2010, is hereby amended by striking out subsection (hh) and inserting in place thereof the following subsection: -

(hh) Commonwealth charter schools shall be funded under this subsection. The commonwealth shall pay a tuition amount to the charter school, which shall be the sum of the tuition amounts calculated separately for each district sending students to the charter school. Tuition amounts for each sending district shall be calculated by the department using the formula set forth herein to reflect, as much as practicable, the actual per pupil spending amount that would be expended in the district if the students attended the district schools. The tuition amount shall be calculated separately for each district sending students to a charter school and for each charter school to which a district sends students. Each district's per pupil tuition amount for each charter school to which it sends students shall include a per pupil foundation budget component, adjusted to reflect the actual net school spending in the sending district.

In calculating the per pupil foundation budget component, the department shall calculate a foundation budget for the students from each sending district attending the charter school in the previous fiscal year, pursuant to section 2 of chapter 70; provided, however, that the department shall not include in the calculation the assumed tuitioned-out special education enrollment, as defined in said section 2 of said chapter 70, or any amounts generated by the assumed enrollment. The per pupil foundation budget component for the charter school shall be the district's foundation budget, as so calculated, divided by the number of students attending the charter school from the sending district in the previous fiscal year. The per pupil foundation budget component shall be calculated separately for each charter school to which a district sends students. The foundation budget for a charter school shall be the sum of the foundation budgets for the charter school for each district sending students to the charter school.

In adjusting the per pupil foundation budget component, the department shall calculate for each sending district an above foundation spending percentage, which shall be the percentage by which the district's actual net school spending exceeds the foundation budget for the district, as calculated under chapter 70. The department shall further calculate the percentage of actual net school spending reported by the sending district associated with tuition costs for tuitioned-out special education students, including

education that occurs in educational collaboratives, and with spending on health care costs for retired employees, for any district for which such costs are included in net school spending and shall reduce the district's above foundation spending percentage proportionately. The per pupil foundation budget component for each charter school to which the sending district sends students shall be increased by the adjusted above foundation spending percentage. In a fiscal year in which a school district's chapter 70 aid is reduced during the course of the fiscal year, under authorization by the general court pursuant to sections 9B and 9C of chapter 29 and the reduction lowers the above foundation percentage, the department shall adjust the total tuition amount proportionately, in a manner consistent with this section and shall notify the affected sending district and charter school of any reductions.

The total tuition amount owed to a charter school shall be the per pupil tuition amount as defined in this section, multiplied by the total number of students attending the charter school from that district in the current fiscal year. The amount shall be composed of district-sponsored tuition and state-sponsored tuition. The district-sponsored tuition shall be the total tuition amount owed to the charter school on behalf of district students for the previous fiscal year; provided, however, that in the event of a charter school closing or eliminating grade levels, a school district shall retain chapter 70 allotments for the students who attended those grade levels in the previous year. The state-sponsored tuition shall be the positive difference, if any, between the total tuition amount for the current fiscal year and the district-sponsored tuition amount. The sending district's total charter school tuition amount for purposes of the following paragraphs shall be the sum of the district-sponsored tuition amounts for each charter school to which the district sends students, calculated using this section. The receiving charter school's total charter school tuition amount shall be the sum of the tuition amounts calculated for the charter school for each district sending students to the charter school. The total state-sponsored charter school tuition amount for a receiving charter school shall be provided directly to the charter school by the commonwealth as part of section 3 of chapter 70 and the distribution of the general appropriation act for a fiscal year or any successor method of determining local aid distributions. The amounts appearing in section 3 of the general appropriation act shall be the state-sponsored tuition amounts; provided, however, that upon calculation of final state-sponsored tuition amounts for the current fiscal year, the department shall adjust state-sponsored tuition amounts based on the calculations for affected charter schools.

The state treasurer shall deduct a sending district's total charter school tuition amount, as calculated herein, from the total state school aid, as defined in section 2 of chapter 70, of the district in which the student resides before the distribution of the aid. In the case of a child residing in a municipality which belongs to a regional school district, the sending district's total charter school tuition amount shall be deducted from the chapter 70 education aid of the school district appropriate to the grade level of the child. If, in a single district, the total of all such deductions exceeds the total of the education aid, the excess amount shall be deducted from other aid appropriated to the city or town. If, in a single district, the total of all the deductions exceeds the total state aid appropriated, the commonwealth shall appropriate the excess amount; provided, however, that if the district has exempted itself from chapter 70 by accepting section 14 of said chapter 70, the commonwealth shall assess the district for the excess amount.

The state treasurer shall disburse to the charter school an amount equal to the charter school's total charter school tuition amount as defined in this section.

If more than 1 charter school is managed by a single network or board of trustees, funding shall not be transferred among individual schools within the network unless such schools are located in the same school district.

The department shall, subject to appropriation, provide funding to charter schools for a portion of the per pupil capital needs component included in the charter school tuition amount for the construction, renovation, purchase, acquisition or improvement of school buildings and land. In fiscal year 2011 and thereafter, the funding shall be the per pupil amount provided in fiscal year 2010, increased or decreased by the foundation inflation index, as defined in section 2 of chapter 70.

#### **Abolish Regional Reference Center Libraries**

1 SECTION 38. Section 19C of chapter 78 of the General Laws, as appearing in the 2008 Official  
2 Edition, is hereby amended by striking out clause (2).

### **General License for Small Docks and Piers**

1 SECTION 39. Chapter 91 of the General Laws is hereby amended by inserting after section 18B  
2 the following section:-

3 Section 18C. (a) Notwithstanding any general or special law to the contrary, the department may  
4 issue a general license authorizing small-scale docks, piers and similar structures, as defined by the  
5 department by regulation, in tidelands, great ponds, rivers and streams subject to individual licensing  
6 requirements pursuant to sections 12, 12A, 13, 14, 18 and 19. This section shall not apply to the issuance  
7 of licenses by the department for commercial marinas or large-scale docks, piers or similar structures.

8 (b) Prior to commencing construction pursuant to a general license authorized under this section, a  
9 project proponent shall certify to the department that the project will comply with the terms and conditions  
10 of the general license and shall pay to the department all applicable fees required under this chapter.

11 (c) The following shall not apply to a general license issued under this section but, where  
12 applicable, shall apply to the certification mandated in subsection (b):

13 (1) the first 2 paragraphs of section 18, which shall not apply to projects subject to a general  
14 license, except that the project proponent shall submit to the planning board of the city or town where the  
15 work is to be performed the proposed use and the location, dimensions and limits and mode of work to be  
16 performed, prior to its certification to the department;

17 (2) the first sentence of the third paragraph of said section 18, which shall not apply to projects  
18 subject to a general license, except that the project proponent shall specify, by metes, bounds and  
19 otherwise, the location, dimensions, and limits and mode of performing the work in its certification to the  
20 department;

21 (3) the second sentence of the third paragraph of said section 18, which shall not apply to projects  
22 subject to a general license, except that any changes in use or structural alteration of a licensed structure or  
23 fill, whether the structure or fill was licensed before or after the effective date of this section, shall require a  
24 new certification for projects eligible for certification or a license for structures which are ineligible for the  
25 general license, in accordance with this chapter and the general license;

26 (4) The sixth paragraph of said section 18, which shall not apply to projects subject to a general  
27 license, except that prior to certification, notice shall be provided by the project proponent to the selectmen  
28 and conservation commission of the town or the mayor and conservation commission of the city wherein  
29 the work is to be performed and published at the same time in a newspaper having a circulation in the area  
30 affected by the project at the expense of the proponent;

31 (5) the seventh and eighth paragraphs of said section 18 regarding public and adjudicatory  
32 hearings, which shall not apply to projects subject to a general license;

33 (6) the ninth paragraph of said section 18 regarding recordation, which shall not apply to projects  
34 subject to a general license, except that the project proponent shall submit a plan of the work or structure to  
35 the department in its certification; provided, however, that a general license shall be void unless, within 60  
36 days after certification, the certification and the accompanying plan are recorded in the registry of deeds for  
37 the county or district wherein the work is to be performed; and provided further, that work or change in use  
38 shall not commence until the certification is recorded and the department has received notice of the  
39 recording;

40 (7) the tenth paragraph of said section 18 regarding zoning approval, which shall not apply to  
41 projects subject to a general license, except that the project proponent shall submit a certification by the  
42 clerk of the affected cities or towns with its certification to the department that the work to be performed or  
43 changed in use is not in violation of local zoning ordinances and by-laws;

44 (8) the eleventh paragraph of said section 18 regarding assessments for tidewater displacement  
45 and occupation of commonwealth tidelands, which shall not apply to projects subject to a general license,  
46 except that those assessments shall be paid by the project proponent with its certification to the department;  
47 and

48 (9) section 20, which shall not apply to projects subject to a general license, except that the  
49 project proponent shall submit plans of any proposed work to be performed and a copy of any legislative  
50 grants in its certification to the department.

51 (d) The department shall promulgate regulations to carry out this section which shall include, but  
52 not be limited to, the scope of a general license and the performance standards that a project proponent  
53 seeking a general license under this section shall satisfy before the department issues a general license. The  
54 regulations shall protect the public rights in tidelands in accordance with this chapter.

### **Nuclear Radiation Monitoring**

1 SECTION 40. Paragraph (E) of section 5K of chapter 111 of the General Laws, as appearing in  
2 the 2008 Official Edition, is hereby amended by striking out, in line 67, the figure "90,000" and inserting in  
3 place thereof the following figure:- 180,000.

### **Hospital Administration for Shaken Baby Syndrome Education**

1 SECTION 41. Section 24L of chapter 111 of the General Laws, as appearing in the 2008 Official  
2 Edition, is hereby amended by striking out, in lines 13 and 14, the words "developed by the department of  
3 public health" and inserting in place thereof the following words:- administered by the hospital or birth  
4 center.

### **Immunization Registry**

1 SECTION 42. Said chapter 111 is hereby further amended by inserting after 24L the following  
2 section:-

3 Section 24M. The department of public health shall establish, maintain and operate a  
4 computerized immunization registry. The immunization registry shall record immunizations and  
5 immunization history with identifying information and shall include appropriate controls to protect the  
6 security of the system and the privacy of the information.

7 The department shall promulgate rules and regulations to implement the immunization registry.

8 Licensed health care providers administering vaccinations shall discuss the reporting procedures  
9 of the immunization registry with the persons receiving the vaccinations and their parents or guardians,  
10 when appropriate, and offer them the right to object to the disclosure of such information as set forth in this  
11 section.

12 Notwithstanding any restrictions set forth in chapter 46 and section 24B of chapter 111, upon  
13 receipt of an initial birth record for a newborn, the state registrar of vital statistics shall transmit to the  
14 immunization registry the information regarding immunizations administered to a newborn and such other  
15 information transmitted with the birth record that the department determines to be the minimum necessary  
16 for the effective operation of the registry.



17 All licensed health care providers practicing who administer immunizations shall report to the  
18 immunization registry such data related to immunizations as the department determines is necessary for  
19 disease prevention and control.

20 Immunization information shall only be released from the immunization registry to the following  
21 individuals and agencies without further express consent of the individual or the individual's parent or  
22 guardian if the individual is a minor, unless the individual or the parent or guardian objects to such  
23 disclosure: (1) licensed health care providers providing direct care to the individual patient; (2) elementary  
24 and secondary school nurses and registration officials who require proof of immunization for school  
25 enrollment and disease control; (3) local boards of health for disease prevention and control; (4) Women  
26 Infants and Children, or WIC, nutrition program staff who administer WIC benefits to eligible infants and  
27 children; (5) staff of state agencies or state programs whose duties include education and outreach related  
28 to the improvement of immunization coverage rates among their clients.

29 The department may designate appropriate users who shall have access only to the individually  
30 identifiable information for which access is authorized. Authorized users, including employees of the  
31 department, who in good faith disclose or refuse to disclose information to the immunization registry, shall  
32 not be liable in any cause of action arising from the disclosure or nondisclosure of such information. The  
33 department may revoke access privileges for just cause.

34 Persons authorized by the commissioner may conduct research studies pursuant to section 24A;  
35 provided, however, that the researcher shall submit a written request for information and shall execute a  
36 research agreement that protects the confidentiality of the information provided.

37 The department may enter into collaborative agreements with registries of other states and  
38 exchange individual or group information provided that maximum protections are afforded the  
39 confidentiality of citizens of the commonwealth in accordance with state law.

40 Information contained in the immunization registry shall be confidential, shall not constitute a  
41 public record and shall not otherwise be disclosed except in accordance with this section. Such confidential  
42 information shall not be subject to subpoena or court order, and shall not be admissible as evidence in any  
43 action of any kind before a court, tribunal, agency, board or person.

44 The department shall establish procedures that allow for an individual or, if the individual is a  
45 minor, then the individual's parent or guardian to amend incorrect information in the immunization registry  
46 and shall provide, upon request, a record of all individuals and agencies that have accessed an individual's  
47 information.

### **Solid Waste**

1 SECTION 43. Section 150A of said chapter 111, as appearing in the 2008 Official Edition, is  
2 hereby amended by striking out the fifth paragraph.

1 SECTION 44. Said section 150A of said chapter 111, as so appearing, is hereby further amended  
2 by striking out, in line 71, the words "thirty days of the receipt of the department's report" and inserting in  
3 place thereof the following words:- 60 days of receipt of said application.

1 SECTION 45. Said section 150A of said chapter 111, as so appearing, is hereby further amended  
2 by striking out, in line 79, the words "department report" and inserting in place thereof the following  
3 words:- the local board of health.

1 SECTION 46. Said section 150A of said chapter 111, as so appearing, is hereby further amended  
2 by striking out the tenth and eleventh paragraphs and inserting in place thereof the following 2 paragraphs:-

3 No facility, except a refuse transfer station that handles not greater than 50 tons of refuse per day  
4 and is designed, constructed and operated in accordance with performance standards issued by the

5 department, shall be established, constructed, expanded, maintained, operated or devoted to any past  
6 closure as defined by regulation, unless detailed operating plans, specifications, a public health report, if  
7 any, and necessary environmental reports have been submitted to the department and the department has  
8 granted a permit for the facility and notice of such permit is recorded in the registry of deeds or, if the land  
9 affected thereby is registered land, in the registry district of the land court for the district wherein the land  
10 lies. A refuse transfer station that handles not greater than 50 tons of refuse per day and is designed,  
11 constructed and operated in accordance with performance standards issued by the department shall not be  
12 established, constructed, expanded, maintained, operated or devoted to any past closure as defined by  
13 regulation, unless detailed operating plans, specifications, a public health report, if any, and necessary  
14 environmental reports have been submitted to the board of health in the city or town in which the facility is  
15 located and such board of health has granted a permit for the facility and notice of such permit is recorded  
16 in the registry of deeds or, if the land affected thereby is registered land, in the registry district of the land  
17 court for the district wherein the land lies. Within 120 after the department or board of health, as  
18 appropriate, has determined that the operating plans, specifications and reports are complete, the  
19 department or board of health, as appropriate, shall make a decision granting or refusing to grant such  
20 permit. The permit, whether issued by the department or board of health, may limit or prohibit the disposal  
21 of particular types of solid waste at a facility in order to protect public health, promote reuse, waste  
22 reduction and recycling, extend the useful life of the facility or reduce its environmental impact.

23 A decision by the department or a board of health, as appropriate, granting or refusing to grant a  
24 permit shall be in writing and shall contain findings with regard to criteria established by the department. A  
25 person aggrieved by the action of the department in granting or refusing to grant such permit, may appeal  
26 that decision pursuant to section 14 of chapter 30A. For the limited purposes of that appeal, the department  
27 action shall be deemed to be a final decision in an adjudicatory proceeding. A person aggrieved by the  
28 decision of a local board of health in granting or refusing to grant a permit for a refuse transfer station may,  
29 within 30 days after the publication of notice of such decision, appeal under said section 14 of said chapter  
30 30A. For the limited purposes of that appeal, the board of health shall be deemed to be a state agency  
31 under said chapter 30A and its proceedings and decision shall be deemed to be a final decision in an  
32 adjudicatory proceeding.

### **Lyme Disease**

1 SECTION 47. Chapter 112 of the General Laws is hereby amended by inserting after section  
2 12CC the following section:-

3 Section 12DD. (a) As used in this section, the following words shall have the following  
4 meanings:-

5 "Long-term antibiotic therapy" the administration of oral, intramuscular or intravenous antibiotics  
6 singly or in combination, for periods of time in excess of 4 weeks.

7 "Lyme disease" the clinical diagnosis of a patient by a physician, licensed under section 2 of  
8 chapter 112 of the presence of signs or symptoms compatible with acute infection with *Borrelia*  
9 *burgdorferi*; late stage, persistent or chronic infection with *Borrelia burgdorferi*; complications related to  
10 such infection or with such other strains of *Borrelia* that after adoption of this bill, are recognized by the  
11 national Centers for Disease Control and Prevention as a cause of Lyme disease. "Lyme disease" shall also  
12 include an infection that meets the surveillance criteria set forth by the national Centers for Disease Control  
13 and Prevention, and a clinical diagnosis of Lyme disease that does not meet the national Centers for  
14 Disease Control and Prevention surveillance criteria but presents other acute and chronic signs or  
15 symptoms of Lyme disease as determined by the treating physician. Such clinical diagnosis shall be based  
16 on knowledge obtained through medical history and physical examination only, or in conjunction with  
17 testing that provides supportive data for such clinical diagnosis.

18 (b) A licensed physician may prescribe, administer or dispense long-term antibiotic therapy for a  
19 therapeutic purpose to eliminate infection or to control a patient's symptoms upon making a clinical  
20 diagnosis that the patient has Lyme disease or displays symptoms consistent with a clinical diagnosis of

21 Lyme disease, if such clinical diagnosis and treatment are documented in the patient's medical record by  
22 the prescribing licensed physician.

### **Recovery of Accident Payments by State Agencies II**

1 SECTION 48. Chapter 118E of the General Laws is hereby amended by striking out section 22, as  
2 so appearing, and inserting in place thereof the following section:-

3 Section 22. (a) As used in this section, the following words shall have the following meanings  
4 unless the context clearly requires otherwise:

5 "Claimant", a person who suffers a loss from accident, illness, injury or otherwise for which  
6 monies may be provided by liability insurance, workers' compensation or any other third party.

7 "Date of the loss", the date on which the accident, illness, injury or other incident occurs.

8 "Third party", an individual, agency, program, entity or insurer including, but not limited to, the  
9 claimant's own insurer, that is or may be liable to pay monies on account of the claimant's loss.

10 (b) When a claimant or a claimant's heirs, estate or legal representative receives payment from a  
11 liability or workers' compensation insurer or any other third party as a result of a loss, the claimant or the  
12 claimant's heirs, estate or legal representative shall repay to the executive office of health and human  
13 services the total of medical assistance benefits provided from monies allocated in the payment, settlement  
14 or compromise of claim or action, court award or judgment for medical expenses. Where the amount  
15 allocated to past medical expenses is insufficient to satisfy the executive office's claim for full recovery of  
16 medical assistance benefits paid, the executive office may assert its claim and recover from any allocation  
17 for future medical expenses.

18 (c) If a payment, settlement or compromise of claim or action, court award or judgment fails to  
19 specify what portion of the payment, settlement or compromise of claim or action, court award or judgment  
20 is in payment of medical expenses, there shall be a presumption that the payment, settlement or  
21 compromise of claim or action, court award or judgment applies first to the medical expenses incurred by  
22 the claimant in an amount equal to the medical assistance benefits paid.

23 (d) The executive office of health and human services may dispute any allocation for medical  
24 damages that results in less than full recovery of medical assistance benefits paid and have a hearing before  
25 a court of competent jurisdiction on the allocation of damages either prior to or after disbursement of  
26 payment by the third party. The executive office shall not be precluded from enforcing its recovery rights  
27 from any payment, settlement or compromise of claim or action, court award or judgment that excludes the  
28 cost of medical assistance benefits paid. Notwithstanding anything in this section or any other general or  
29 special law to the contrary, where a claimant received medical assistance through a managed care  
30 organization, the executive office may recover the amount that the managed care organization paid for  
31 medical services provided.

32 (e) When a claimant or a claimant's heirs, estate or legal representative receives payment from a  
33 liability or workers' compensation insurer or any other third party, the claimant or the claimant's heirs,  
34 estate or legal representative shall repay to the division of health care finance and policy the costs  
35 attributable to services provided to the claimant that were paid by the Health Safety Net Trust Fund  
36 established in section 36 of chapter 118G.

37 (f) When a claimant or a claimants' heirs, estate or legal representative receives payment from a  
38 liability or workers' compensation insurer or any other third party, the claimant or the claimant's heirs,  
39 estate or legal representative shall repay to the department of transitional assistance the total of all financial  
40 assistance benefits provided by the department on and after the date of the loss to or on behalf of the  
41 claimant, the claimant's spouse or children and any other individual the claimant is required by law to

support; provided, however, that if on the date of the loss the claimant was already eligible for financial assistance benefits, the claimant or the claimant's heirs, estate or legal representative shall repay only the increase in financial assistance that occurred as a result of the accident, illness, injury or other incident.

(g) The application for and receipt of benefits recoverable under this section, after notice to the third party, shall operate as a lien to secure repayment against monies which may be provided by the third party up to the amount of such recoverable benefits, but the department of transitional assistance, the executive office of health and human services and the division of health care finance and policy may also perfect their rights to a lien against any monies which may come into possession of the claimant's attorney from the third party by giving notice to that attorney.

(h) If the monies available for repayment are insufficient to satisfy in full any competing claims of the executive office of health and human services, the division of health care finance and policy and the department of transitional assistance, then each shall be entitled to its respective pro rata share of the monies that are available.

(i) A person receiving public assistance benefits recoverable under this section shall assign to the commonwealth an amount equal to the benefits so provided from the proceeds of any such claim against the third party.

(j) A claimant, or if represented by counsel, the claimant's attorney, shall, within 10 calendar days, notify the executive office of health and human services in writing upon engaging in recovery activity including, but not limited to, making an insurance claim or sending a demand letter and upon commencement of a civil action or other proceeding to establish the liability of a third party or to collect monies payable under accident, liability or health insurance, workers' compensation or from any other third party. No settlement, compromise, judgment or award or any recovery in any claim or action shall be made final without first providing the executive office of health and human services, the division of health care finance and policy and the department of transitional assistance with written notice and a reasonable opportunity to intervene or otherwise perfect their rights to recovery.

(k) The commonwealth shall be subrogated to a claimant's entire cause of action or right to proceed against a third party and to a claimant's claim for monies to the extent of assistance or services provided under chapter 118, 118E or 118G. The commonwealth shall also have a separate and independent cause of action to recover, from a third party, assistance provided to a claimant under said chapter 118, 118E or 118G, which cause of action shall be in addition to other causes of action. The commonwealth may, by attorneys employed or selected by the commonwealth, commence a civil action or other proceeding to establish the liability of a third party or to collect such monies, or may intervene as of right in a civil action commenced by a claimant against a third party. No third party shall require written authorization from the claimant before honoring the commonwealth's rights under this section.

(l) Failure of a claimant without good cause to provide notice as required under this section or to provide such further information deemed necessary by the executive office to pursue its rights under this section shall be grounds for termination of benefits.

(m) Notwithstanding any general or special law or rule or regulation to the contrary, a third party shall provide information requested by the executive office of health and human services, the department of transitional assistance and the division of health care finance and policy for use by those agencies to recover payments for public assistance benefits or services under this section, section 5G of chapter 18 and section 39 of chapter 118G.

#### **Collection of All-Payer Claims Data**

SECTION 49. Section 6 of chapter 118G of the General Laws, as most recently amended by section 77 of chapter 27 of the acts of 2009, is hereby further amended by inserting after the third paragraph, the following paragraph:-

4 The division shall ensure the timely reporting of information required under this section. The  
5 division shall notify payers of any applicable reporting deadlines. The division may assess penalties  
6 against any private health care payer that fails to meet a reporting deadline. The division shall notify, in  
7 writing, a private health care payer that it has failed to meet a reporting deadline and that failure to respond  
8 within 2 weeks of the receipt of the notice may result in penalties. A payer that fails, without just cause, to  
9 provide the requested information within 2 weeks following receipt of the written notice required under this  
10 paragraph may be assessed a penalty of up to \$1,000 per week for each week of delay after the 2-week  
11 period following the payer's receipt of the written notice; provided, however, that the maximum annual  
12 penalty against a private payer under this section shall be \$50,000. Amounts collected pursuant to this  
13 section shall be deposited in the General Fund.

#### **Health Safety Net Services**

1 SECTION 50. Section 1 of chapter 118G of the General Laws, as so appearing, is hereby amended  
2 by striking out the definition of "Critical access services".

1 SECTION 51. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by  
2 striking out, in line 97, the words "emergency, urgent, and critical access".

1 SECTION 52. Section 34 of said chapter 118G, as so appearing, is hereby amended by striking  
2 out the definition of "Critical access services".

#### **Assessments on Managed Care Organizations I**

1 SECTION 53. Said section 34 of said chapter 118G, as appearing in the 2008 Official Edition, is  
2 hereby further amended by inserting after the definition of "Health services" the following definition:-

3 "Managed care organization", a managed care organization, as defined in 42 CFR 438.2, and any  
4 eligible health insurance plan, as defined in section 1 of chapter 118H, that contracts with MassHealth or  
5 the health insurance connector authority; provided, however, that "managed care organization" shall not  
6 include a senior care organization, as defined in section 9D of chapter 118E.

1 SECTION 54. Said section 34 of said chapter 118G, as so appearing, is hereby further amended  
2 by inserting after the word "basis", in lines 83 and 84, the following words:- ; provided further, that  
3 "payments subject to surcharge" shall include payments made by a managed care organization on behalf of  
4 (i) Medicaid recipients under age 65; and (ii) enrollees in the commonwealth care health insurance  
5 program.

#### **Health Safety Net Services II**

1 SECTION 55. Said section 34 of said chapter 118G, as so appearing, is hereby further amended  
2 by striking out, in lines 107 and 108, the words "emergency, urgent and critical access".

#### **Assessments on Managed Care Organizations II**

1 SECTION 56. Said section 34 of said chapter 118G, as so appearing, is hereby further amended  
2 by inserting after the word "shall", in line 122, the following words:- include a managed care organization;  
3 and provided further, that "surcharge payor" shall.

1 SECTION 57. Subsection (a) of section 36 of said chapter 118G, as so appearing, is hereby  
2 amended by striking out the second sentence and inserting in place thereof the following sentence:- The  
3 purposes of the fund shall be: (i) to maintain a health care safety net by reimbursing hospitals and  
4 community health centers for a portion of the cost of reimbursable health services provided to low-income,  
5 uninsured or underinsured residents; and (ii) to support a portion of the costs of the Medicaid program  
6 under chapter 118E and the commonwealth care health insurance program under chapter 118H.

1 SECTION 58. Said section 36 of said chapter 118G, as so appearing, is hereby further amended  
2 by inserting after the word "hospitals", in line 29, the following words:- ; and provided further, that any  
3 amounts collected from surcharge payors in any year in excess of \$160,000,000, adjusted to reflect  
4 applicable surcharge credits, shall be transferred to the General Fund to support a portion of the costs of the  
5 Medicaid and commonwealth care health insurance programs.

1 SECTION 59. Subsection (a) of section 38 of said chapter 118G, as so appearing, is hereby  
2 amended by striking out the fourth and fifth sentences and inserting in place thereof the following 2  
3 sentences:- The office shall calculate the surcharge percentage by dividing \$160,000,000 by the projected  
4 annual aggregate payments subject to the surcharge, excluding projected annual aggregate payments based  
5 on payments made by managed care organizations. The office shall determine the surcharge percentage  
6 before the start of each fund fiscal year and may redetermine the surcharge percentage before April 1 of  
7 each fund fiscal year if the office projects that the initial surcharge percentage established the previous  
8 October will produce less than \$150,000,000 or more than \$170,000,000 in surcharge payments, excluding  
9 payments made by managed care organizations.

### **Aging Out of DCF**

1 SECTION 60. Section 23 of chapter 119 of the General Laws, as so appearing, is hereby amended  
2 by striking out subsection (f) and inserting in place thereof the following subsection:-

3 (f) Notwithstanding section 26, the department shall continue its responsibility as provided in this  
4 section for a person who has attained the age of 18 but has not yet attained the age of 22 and who is: (i)  
5 completing secondary education or a program leading to an equivalent credential; (ii) enrolled in an  
6 institution which provides post-secondary or vocational education; (iii) participating in a program or  
7 activity designed to promote, or to remove barriers to, employment; (iv) employed at least 80 hours per  
8 month; or (v) incapable of doing any of the activities described in subclauses (i) through (iv), inclusive, due  
9 to a medical condition, which incapability is supported by regularly updated information in the case plan of  
10 the child, provided, however, that the department's continued responsibility for persons who have attained  
11 the age of 18 is contingent upon the express written consent of the person.

12 Notwithstanding any general or special law to the contrary, the juvenile court department shall  
13 retain jurisdiction under this chapter for persons in the continued care of the department under this  
14 subsection, including for the purpose of permanency reviews as set forth in section 29B.

15 If a child elects to leave the care of the department when the child attains the age of 18, during the  
16 90-day period immediately before the date on which a child attains 18 years of age, whether during that  
17 period foster care maintenance payments are being made on the child's behalf or the child is receiving  
18 benefits or services under section 477 of the Social Security Act, 42 U.S.C. § 677, the department shall  
19 provide the child with assistance and support in developing a transition plan that is personalized at the  
20 direction of the child; provided, however, that the plan includes specific options on housing, health  
21 insurance, education, local opportunities for mentors and continuing support services and work force  
22 supports and employment services; and provided further, that the plan is as detailed as the child may elect.  
23 The juvenile court department shall retain jurisdiction until it finds, after a hearing at which the child is  
24 present, that a satisfactory transition plan has been provided for the child.

25 If a child remains under the care of the department upon attaining the age of 18 as provided in this  
26 subsection, then during the 90-day period immediately before the date on which the child leaves the care of  
27 the department, or the child's 22nd birthday, whichever comes first, the department shall provide the child  
28 with assistance and support in developing a transition plan that is personalized at the direction of the child;  
29 provided, however, that the plan includes specific options on housing, health insurance, education, local  
30 opportunities for mentors and continuing support services and work force supports and employment  
31 services; and provided further, that the plan is as detailed as the child may elect. The juvenile court  
32 department shall retain jurisdiction until it finds, after a hearing at which the child is present, that a  
33 satisfactory transition plan has been provided for the child.

34 If a person who has attained the age of 18 leaves the care of the department but requests, before  
35 attaining the age of 22, that the department re-open the person's case, the department shall make every  
36 reasonable attempt to provide a program of support which is acceptable to the person and which permits the  
37 department to renew its responsibility.

38 Nothing in this subsection shall be construed to provide legal custody of a person who has attained  
39 the age of 18 to the department or to otherwise abrogate any other rights that a person who has attained the  
40 age of 18 may have under law by dint of their age.

41 The department shall report annually to the child advocate, chairs of the joint committee on  
42 children, families and persons with disabilities and the senate and house committees on ways and means on  
43 the numbers of persons it serves and declines to serve under this subsection.

#### **Child Support Enforcement Spending from Penalties and Interest Account I**

1 SECTION 61. Section 10 of chapter 119A, as so appearing, is hereby amended by inserting after  
2 the figure "10A", in line 14, the following words:- and on child support services authorized pursuant to  
3 Title IV, Part D of the Social Security Act.

#### **Child Support Enforcement Spending from Penalties and Interest Account II**

1 SECTION 62. Section 11 of said chapter 119A, as so appearing, is hereby amended by inserting  
2 after the word "fund", in line 7, the following words:- and from the child support penalties account.

#### **Restaurant Rejuvenation I**

1 SECTION 63. Section 33 of chapter 138 of the General Laws, as so appearing, is hereby amended  
2 by striking out, in line 12, the words "12:00 noon and in any county other than Suffolk," and inserting in  
3 place thereof the following words:- 10:00 a.m. and.

#### **Restaurant Rejuvenation II**

1 SECTION 64. Section 33B of said chapter 138, as so appearing, is hereby amended by striking out  
2 the words "eleven o'clock ante meridian and twelve o'clock" and inserting in place thereof the following  
3 words:- 10:00 a.m. and 12:00.

#### **Protecting the Rights of Victims and Witnesses of Crimes**

1 SECTION 65. (a) Section 1 of chapter 258B of the General Laws, as appearing in the 2008  
2 Official Edition, is hereby amended by inserting after the word "delinquency", in line 10, the following  
3 words:- or conviction as a youthful offender.

1 SECTION 66. Said section 1 of said chapter 258B, as so appearing, is hereby further amended by  
2 striking out, in lines 12 to 14, inclusive, the words "or found delinquent or against whom a finding of  
3 sufficient facts for conviction or finding of delinquency" and inserting in place thereof the following  
4 words:- , adjudicated as a delinquent or convicted as a youthful offender or against whom a finding of  
5 sufficient facts.

1 SECTION 67. Said section 1 of said chapter 258B, as so appearing is hereby further amended by  
2 inserting after the word "stepparent", in lines 15 and 16, the following word:- , grandparent.

1 SECTION 68. Said section 1 of said chapter 258B, as so appearing is hereby further amended by  
2 inserting after the definition of "family member" the following definition:-

3 “Orientation”, a familiarization with the courtroom setting, court personnel and rules of court to  
4 the extent practicable under the circumstances as required in this chapter; provided, however, that this  
5 requirement may be satisfied through the use of diagrams, photographs or other reasonable methods.

1 SECTION 69. Said section 1 of said chapter 258B, as so appearing is hereby further amended by  
2 striking out , in line 25, the word “which”, and inserting, in place thereof, the following word:- that.

1 SECTION 70. Said section 1 of said chapter 258B, as so appearing is hereby further amended by  
2 striking the definition of “Victim” and inserting in place thereof the following definition:-

3 “Victim”, a natural person who suffers direct or threatened physical, emotional or financial harm  
4 as the result of the commission or attempted commission of a crime or delinquency offense as  
5 demonstrated by the issuance of a complaint or indictment, the family members of such person if the  
6 person is a minor or incompetent, the family members of such person if the person is deceased even if no  
7 arrest, indictment or complaint has been issued and, for relevant provisions of this chapter, a person who is  
8 the subject of a case reported to a prosecutor pursuant to section 18 of chapter 19A, sections 5 and 9 of  
9 chapter 19C and section 51B of chapter 119 and the family members of any such person if the person is a  
10 minor, incompetent or deceased.

1 SECTION 71. Said section 1 of said chapter 258B, as so appearing is hereby further amended by  
2 striking out, in lines 40 and 41, the words “is expected to be summoned to testify for the prosecution” and  
3 inserting, in place thereof, the following words:- may be summoned to testify for the prosecution or that  
4 person’s family member or guardian if the person is a minor, incompetent or deceased.

1 SECTION 72. Section 3 of said chapter 258B, as so appearing, is hereby amended by inserting  
2 after the word “all”, in line 16, the following words:- adult and juvenile.

1 SECTION 73. Said section 3 of said chapter 258B, as so appearing, is hereby further amended by  
2 striking out, in lines 31 to 34, inclusive, the words “protection from the local law enforcement agencies  
3 from harm and threats of harm” and inserting in place thereof the following words:- assistance in  
4 developing safety plans and appropriate referrals to address harm, threats of harm or fears.

1 SECTION 74. Said section 3 of said chapter 258B, as so appearing, is hereby further amended by  
2 striking out clause (i) and inserting in place thereof the following clause:-

3 (i) for victims, family members and witnesses to be provided, by the court as provided in section  
4 17 of chapter 211B, with a secure waiting area or room which is separate from the waiting area of the  
5 defendant or the defendant’s family, friends, attorneys or witnesses and separate from the district attorney’s  
6 office; provided, however, that the court shall designate a waiting area at each courthouse; and provided  
7 further, that designation of those areas shall be made in accordance with the implementation plan  
8 developed by the task force.

1 SECTION 75. Said section 3 of said chapter 258B, as so appearing, is hereby further amended by  
2 striking out, in line 86 and 87, the words “fourteen A of chapter two hundred and sixty-eight” and inserting  
3 in place thereof the following words:- 14B of chapter 268.

1 SECTION 76. Section 3 of said chapter 258B, as so appearing, is hereby further amended by  
2 inserting after the word “informed, in line 88, the following words:- by the prosecutor.



1 SECTION 77. Said section 3 of said chapter 258B, as so appearing, is hereby further amended by  
2 inserting after the word "interview", in line 92, the following words:- ; provided further, that defense  
3 counsel shall not seek to interview a victim or witness under the age of majority, incompetent or  
4 cognitively impaired until the victim or witness has been informed, in the presence of a parent, guardian or  
5 accompanying adult who is not the defendant, of the right to submit to or decline the interview.

1 SECTION 78. Said section 3 of said chapter 258B, as so appearing, is hereby further amended by  
2 striking out, in line 111, the word "at" and inserting in place thereof the following word:- before.

1 SECTION 79. Said section 3 of said chapter 258B, as so appearing, is hereby further amended by  
2 inserting after the word "defendant", in lines 111 and 112, the following words:- , even if there is an  
3 admission to sufficient facts, the sentence is mandatory or there is an agreed upon plea.

1 SECTION 80. Said section 3 of said chapter 258B, as so appearing, is hereby further amended by  
2 inserting after the word "crime", in line 117, the following words:- ; provided, however, that upon a  
3 showing by the prosecutor that a personal appearance by the victim will cause an unreasonable hardship on  
4 the victim, the court shall permit the victim to exercise the right to be heard by submitting a statement  
5 through audio tape or videotape to be heard or viewed before the sentence or disposition is imposed.

1 SECTION 81. Said section 3 of said chapter 258B, as so appearing, is hereby further amended by  
2 striking out clause (t) and inserting in place thereof the following clause:-

3 (t) for victims and witnesses to be informed by the prosecutor about their notification rights and  
4 the certification process required to access the criminal offender record information files pursuant to  
5 sections 172C and 178A of chapter 6; provided, however, that individuals certified by the criminal history  
6 systems board or, in the case of a juvenile defendant by the department of youth services, shall be informed  
7 by the appropriate custodial authority if the offender escapes from custody and shall receive advance  
8 notification when the offender receives a temporary, provisional or final release from custody or is  
9 transferred from a secure facility to a less-secure facility; and provided further, that certified individuals  
10 shall provide the criminal history systems board, or the department of youth services in the case of a  
11 juvenile defendant, with current contact information;

1 SECTION 82. The first paragraph of said section 3 of said chapter 258B, as so appearing, is  
2 hereby further amended by adding the following 5 clauses:-

3 (w) for victims and witnesses who are minor children or adults with disabilities to have parents, a  
4 counselor, friend or other person having a supportive relationship with the victim or witness, in addition to  
5 the victim witness advocate, remain in the courtroom during the child's or adult's testimony unless, in  
6 written findings made and entered, the court finds that the defendant's constitutional right to a fair trial will  
7 be prejudiced;

8 (x) for victims and witnesses who are minor children or adults with disabilities to be provided by  
9 prosecutors with an orientation to the courtroom setting, court personnel and rules of the court, to the extent  
10 practicable under the circumstances; (z) The prosecution shall confer with the victim or victims prior to the  
11 acceptance of a plea of guilty or admission to sufficient facts. Before the judge accepts a plea of guilty, an  
12 admission to sufficient facts, a disposition, or an agreed-upon sentence recommendation, the judge shall ask  
13 the prosecutor if the victim has been consulted regarding plea discussions, whether or not the victim agrees  
14 or disagrees with the plea discussions and agreement, if the victim was notified of the court date and is  
15 present, and if the victim would like to assert their right to offer a victim impact statement;

(y) for victims to be notified by the prosecutor that they have the right, pursuant to clause (k) of subsection 1 of section 178K of chapter 6 to provide the sex offender registry board with a written impact statement for the board's consideration in determining a sex offender's classification; provided, however, that upon the specific request of the victim to the sex offender registry board, the sex offender registry board shall inform the victim of the sex offender's: (i) registration and classification status; and (ii) the home, work and institution of higher education addresses of the sex offender regardless of the classification level and registration status of the offender;

(z) for victims and witnesses to be informed by the court, at the daily commencement of the regular criminal docket at which accused persons are arraigned, that a summary of their rights is posted and the location of the posting within the courthouse;

(aa) for the victims to be notified by the responding officer who has determined that a crime has been committed of the commission or attempted commission of violent acts and others as deemed appropriate by the responding officer of their rights under this chapter; provided, however, that unless the officer reasonably concludes that it is not practicable or safe to do so under the circumstances, the officer shall present a card prepared by the Massachusetts office for victim assistance in consultation with the victim and witness assistance board which shall include, but not be limited to, a summary of their rights under this chapter, relevant referrals to victim services and, pursuant to chapter 258C, referrals for victim compensation.

SECTION 83. Said section 3 of said chapter 258B, as so appearing, is hereby further amended by adding the following paragraph:-

There shall be conspicuously posted in all courthouses and police stations a summary of the rights afforded under this section. The victim and witness assistance board, pursuant to section 4, shall devise and provide posters to satisfy this requirement to court officials and police station personnel, and, upon request and at the discretion of the office and board, to any other institution or organization to post and maintain in space accessible to the general public. The board shall develop the posters in a variety of languages as determined by the Massachusetts office for victim assistance. Upon request, the board will respond, to the extent possible, to any requests for additional language translations of the posters.

SECTION 84. Section 6 of said chapter 258B is hereby repealed.

SECTION 85. Said chapter 258B is hereby further amended by striking out section 7, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 7. The district attorney, law enforcement agencies, social service agencies and court shall cooperate to afford victims and witnesses of crimes the rights and services described in this chapter.

SECTION 86. The first paragraph of section 8 of said chapter 258B, as so appearing, is hereby amended by striking out the fifth, sixth and seventh sentences and inserting in place thereof the following sentence:- An assessment made pursuant to this section shall not be waived.

SECTION 87. Section 9 of said chapter 258B is hereby repealed.

#### **Indigent Court Costs**

SECTION 88. Section 27C of chapter 261 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out paragraph (4) and inserting in place thereof the following paragraph:-

(4) If the court makes a finding of indigency:

5 (1) in criminal cases, juvenile delinquency proceedings and youthful offender cases and in cases  
6 arising under chapter 123A, any request for normal or extra fees and costs shall first be submitted to the  
7 committee for public counsel services which shall be authorized to approve those requests; provided,  
8 however, that the committee shall authorize any request with respect to normal fees and costs and it any  
9 request with respect to extra fees and costs if the document, service or object is reasonably necessary to  
10 assure the applicant as effective a prosecution, defense or appeal as he would have if he were financially  
11 able to pay; provided further, that if the committee recommends that such an application be denied, in  
12 whole or in part, the request shall be referred for prompt hearing to the court in which the action is pending  
13 at the request of the applicant; provided further, that the committee shall make reasonable efforts to act on  
14 the application within 10 business days and, if the committee fails to act within 10 business days of the date  
15 the application was filed, the applicant may file a motion with the court in which the action is pending;  
16 provided further, that the court shall not deny a request or motion filed pursuant to this section if the  
17 document, service or object is reasonably necessary to assure the applicant as effective a prosecution,  
18 defense or appeal as he would have if he were financially able to pay; and provided further, that the court  
19 shall not deny a request without first holding a hearing thereon;

20 (2) in all other cases, a request for normal or extra fees shall be submitted to the court in which the  
21 action is pending; provided, however, that the court shall not deny a request with respect to normal fees and  
22 costs and with respect to extra fees and costs if it finds the document, service or object is reasonably  
23 necessary to assure the applicant as effective a prosecution, defense or appeal as he would have if he were  
24 financially able to pay; and provided further, that the court shall not deny a request without first holding a  
25 hearing thereon; and

26 (3) if there is an appeal pursuant to section 27D following a denial, the court shall, within 3 days,  
27 set forth its written findings and reasons justifying such denial, which document shall be part of the record  
28 on appeal.

29 SECTION 89. Chapter 261 is hereby further amended by striking out section 27G and inserting in  
30 place thereof the following section:-

31 Section 27G. The committee for public counsel services shall receive from an indigent party or  
32 the party's attorney all bills and vouchers for a document, service or object rendered to that party for which  
33 payment by the commonwealth has been authorized pursuant to clause (a) of paragraph (4) of section 27C  
34 and shall make prompt payment thereon. The clerk shall receive from an indigent party or his attorney all  
35 bills and vouchers for any document, service or object rendered to that party for which an order for  
36 payment by the commonwealth has been issued pursuant to clause (b) of said paragraph (4) of said section  
37 27C and shall transmit those bills and vouchers and an attested copy of the order to the committee for  
38 public counsel services which shall make prompt payment thereon.

### **Hazardous Waste Site Cleanup II**

1 SECTION 90. Section 43 of chapter 206 of the acts of 1998 is hereby amended by inserting after  
2 the word "on", in line 2, the following words:- a statistically significant number, as determined by the  
3 department in consultation with the waste site cleanup advisory committee, taking into account the need for  
4 audits to ensure a high level of compliance with this chapter and the Massachusetts contingency plan, and  
5 the need to target audit resources in the most efficient and effective manner.

### **Out-of-State Tuition Retention**

1 SECTION 91. Subsection (a) of section 25 of chapter 45 of the acts of 2005 is hereby repealed.

### **Ponkapoag Lease**

1 SECTION 92. Subsection (a) of section 103 of chapter 182 of the acts of 2008 is hereby amended  
2 by striking out the first paragraph and inserting in place thereof the following paragraph:-

3 Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55, inclusive, of chapter 7 of  
4 the General Laws or any other general or special law to the contrary, the division of capital asset  
5 management and maintenance, on behalf of and in consultation with the department of conservation and  
6 recreation, using such competitive proposal process as the division considers necessary or appropriate, may  
7 lease and enter into other agreements, for terms not to exceed 25 years with 1 or more operators, for the  
8 Ponkapoag Golf Course in the town of Canton so as to provide for the continued use, operation,  
9 maintenance, repair and improvement of the golf courses, practice greens, driving range, restaurant and any  
10 other structure and associated lands which constitute the facilities of the Ponkapoag Golf Course; provided,  
11 however, that the division of capital asset management and maintenance, in consultation with the  
12 department of conservation and recreation, shall give priority to a proposal submitted by the town of  
13 Canton or by a nonprofit organization within the town of Canton which complies with the requirements of  
14 this section. The division of capital asset management and maintenance shall provide the town of Canton  
15 with not less than 45 days to determine whether the town shall submit a proposal before soliciting proposals  
16 under subsection (b); and provided further, that if the town of Canton executes a lease of the golf course  
17 under this section it shall not assign or otherwise transfer the lease to a third party.

1 SECTION 93. Subsection (b) of said section 103 of said chapter 182 is hereby amended by  
2 striking out the first paragraph and inserting in place thereof the following paragraph:-

3 If no lease agreement is reached with the town of Canton under subsection (a) before September 1,  
4 2010, the division of capital asset management and maintenance, in consultation with and on behalf of the  
5 department of conservation and recreation, shall solicit proposals through a request for proposals which  
6 shall include key contractual terms and conditions to be incorporated into the contract including, but not  
7 limited to: (1) a comprehensive list of all recreational facilities operated by the responsive bidder or offeror  
8 in the last 4 years; (2) other facilities management or experience of the responsive bidder or offeror; (3) a  
9 senior citizens' and children's discount program; (4) reservation policies; (5) proposed reasonable rates that  
10 ensure continued public access; (6) required financial audits; (7) policies to encourage use of the golf  
11 course by persons of all races and nationalities; (8) safety and security plans; (9) seasonal opening and  
12 closing dates; (10) hours of operation; (11) holiday recognition; (12) grievance processes; (13) clubhouse  
13 license; (14) a provision that the facility shall be maintained as a 36-hole public golf course; (15) a  
14 provision that the lessee shall not construct facilities on the grounds of the golf course or any property  
15 appurtenant thereto; provided, however, that the lessee may construct facilities with the written approval of  
16 the commissioner of conservation and recreation and the majority vote of the board of selectmen in the  
17 town of Canton; and (16) a host community agreement between the designated operator and the town of  
18 Canton. Any increase in fees, including fees for season passes and club memberships, and any increase in  
19 charges for greens' fees or golf cart or club rentals shall be approved in writing by the commissioner of  
20 conservation and recreation; provided, however, that in considering any request for an increase in fees, the  
21 commissioner shall consider, without limitation: (i) any capital investment made by the contractor or  
22 lessee; (ii) the fees and charges at other public golf courses within reasonable proximity; and (iii) the length  
23 of time since the last fee increase.

#### **Homeowner Heating Oil Compliance Deadline**

1 SECTION 94. Chapter 453 of the acts of 2008 is hereby amended by striking out section 9 and  
2 inserting in place thereof the following section:-

3 Section 9. Section 3 shall take effect on September 30, 2011, and section 4 shall take effect on  
4 July 1, 2010.

#### **The Templeton Visioning Committee**

1 SECTION 95. Section 1 of chapter 59 of the acts of 2009 is hereby amended by striking the  
2 definition of "Plan" and inserting in place thereof the following definition:-

3 "Plan", a reuse or visioning plan prepared by the division in consultation with the MDC committee  
4 and the TDC committee which shall be approved by the commissioner and filed in accordance with section  
5 2; provided, however, that the plan may be enhanced, refined or amended from time to time as provided in  
6 this section and shall include uses for department programs, uses that promote environmental preservation,  
7 open space and any other use found to be appropriate by the commissioner, town and committee.

1 SECTION 96. Said section 1 of said chapter 59 is hereby further amended by striking out the  
2 definition of "TDC committee" and inserting in place thereof the following definition:-

3 "TDC committee", the Templeton Developmental Center Visioning Committee, which shall  
4 include 3 representatives of the town of Templeton, 1 of whom shall be a member of the Templeton board  
5 of selectmen or his designee who shall serve as chairperson, 1 of whom shall be a member of the  
6 Templeton planning board or his designee, and 1 of whom shall be chosen by the Templeton board of  
7 selectmen; 1 representative of the community preservation committee; 1 representative of the division of  
8 capital asset management and maintenance; 1 representative of the department of developmental services; 1  
9 representative of the employees of the Templeton Development Center; and 1 representative of the legal  
10 guardians of the clients currently housed at Templeton Developmental Center; provided, however, that the  
11 members, other than the members who are representatives of the state agencies, shall be appointed annually  
12 by the local governing authority. The senator and representative who represent the town shall serve as ex-  
13 officio members.

1 SECTION 97. Section 2 of said chapter 59 is hereby amended by striking out the second sentence  
2 and inserting in place thereof the following sentence:- The TDC committee and MDC committee shall  
3 submit their recommendations for the reuse or visioning plans with the commissioner within 180 days after  
4 the division provides a local polling package to the town.

1 SECTION 98. Said chapter 59 is hereby further amended by inserting after section 2 the  
2 following section:-

3 Section 2A. The TDC committee shall evaluate and make recommendations to the commissioner  
4 on the use of the TDC site including, but not limited to, the continued use of the site as a state facility or  
5 other alternative uses for the TDC site. The TDC committee shall inform the town's governing authority  
6 and the local community periodically of its proposals and decisions relevant to the use of the TDC site.

1 SECTION 99. The first sentence of section 3 of said chapter 59 is hereby amended by inserting  
2 after the word "reuse" the following words: - or visioning.

1 SECTION 100. Section 4 of said chapter 59 is hereby amended by striking out the second  
2 sentence and inserting in place thereof the following sentence:- The right of first refusal shall be exercised,  
3 if at all, by the affected town by giving written notice of the town's intention to acquire the property to the  
4 division within 180 days after the completion and submission of the plan.

1 SECTION 101. Section 5 of said chapter 59 is hereby amended by striking out the second  
2 sentence and inserting in place thereof the following sentence:- The commissioner shall seek advice from  
3 the appropriate reuse or visioning committee prior to the implementation of any action.

1 SECTION 102. Said chapter 59 is hereby further amended by striking out section 6 and inserting  
2 in place thereof the following section:-

3 Section 6. The department of developmental services, with the approval of the commissioner,  
4 may enter into contracts for the provision of building management services for buildings and facilities  
5 located on the site as deemed necessary by the commissioner and the reuse or visioning committee.

#### **Veteran Retirement Bonus**

1           SECTION 103. Notwithstanding the third paragraph of section 6 of chapter 116 of the acts of  
2 2002, members of the retirement system of a political subdivision who were eligible to apply for creditable  
3 service pursuant to said third paragraph of said section 6 of said chapter 116 but failed to do so within 180  
4 days of the acceptance of that act by the local legislative body may apply for such creditable service within  
5 180 days of a vote by the local legislative body to allow members an additional period of time to apply for  
6 such creditable service pursuant to this section; provided, however, that a local legislative body may vote to  
7 allow this additional time period only once.

### **Expedited Disposition of Surplus State Land**

1           SECTION 104. (a) In order to facilitate the reuse of the properties identified in subsection (b) and  
2 to generate non-tax revenues for the commonwealth, the commissioner of capital asset management and  
3 maintenance may, subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws but  
4 notwithstanding any other general or special law to the contrary, sell, lease for terms up to 99 years  
5 including all renewals and extensions, or otherwise grant, convey or transfer to purchasers or lessees an  
6 interest in any of those properties, or portions thereof, subject to this section and any terms and conditions  
7 that the commissioner considers appropriate. The commissioner shall dispose of each property, or portions  
8 thereof, utilizing appropriate competitive processes and procedures. At least 30 days before the date on  
9 which bids, proposals or other offers to purchase or lease a property, or any portion thereof, are due, the  
10 commissioner shall place a notice in the central register published by the state secretary under section 20A  
11 of chapter 9 of the General Laws stating the availability of the property, the nature of the competitive  
12 bidding process and other information that he considers relevant, including the time, place and manner for  
13 the submission of bids and proposals and the opening of the bids.

14           (b) Properties available for re-use under this section:-

15           (1) a certain parcel of land located in the town of Agawam at 702 South Westfield street,  
16 containing approximately 4 acres, together with any buildings and structures thereon, formerly known as  
17 the western Massachusetts criminal justice training center, described in book 915, page 453, in the  
18 Hampden county registry of deeds, and further shown on Agawam assessors map E4, lot 12;

19           (2) a certain parcel of land located in the town of Belchertown at 205 State street, containing  
20 approximately 7.5 acres, together with any buildings and structures thereon;

21           (3) certain parcels of land located in the East Boston section of the city of Boston at 20 Addison  
22 street and 600 Chelsea street, together with any buildings and structures thereon, shown as Lot 1 and Lot 3  
23 on a plan entitled "East Boston Electric Shop, Central Maintenance Facility, Plan of Land Located in East  
24 Boston, Massachusetts, Suffolk County," prepared by Bryant Associates, Inc., dated February 7, 2002,  
25 revision date May 28, 2002, on file with the division, with the benefit of certain easements and  
26 appurtenances thereto as shown on said plan;

27           (4) certain parcels of land located in the Roxbury section of the city of Boston at 167 Centre street,  
28 containing approximately 8,496 square feet, together with any buildings and structures thereon, shown as  
29 Assessor's Block 55 bounded by Columbus avenue, New Heath street and Penryth street and shown as  
30 Assessor's Block 56 bounded by Columbus avenue, Centre street and Penryth street;

31           (5) a certain parcel of land located in the city of Chelsea at 24 Hillside avenue, containing  
32 approximately 0.15 acres, together with any buildings and structures thereon;

33           (6) a certain parcel of land located in the town of Danvers at 471 Maple street, containing  
34 approximately 0.367 acres, together with any buildings and structures thereon;

35           (7) a certain parcel of land located in town of Dartmouth at 262 State road, containing  
36 approximately 0.75 acres, together with any buildings and structures thereon, formerly known as the state  
37 police barracks;

38 (8) a certain parcel of land located in the town of Foxborough at 32 Payson road, together with any  
39 buildings and structures thereon;

40 (9) a certain parcel of land located in the town of Foxborough on Walnut street, containing  
41 approximately 16 acres, together with any buildings and structures thereon;

42 (10) a certain parcel of land located in the city of Lawrence at 381 Common street, together with  
43 any buildings and structures thereon, formerly known as the Essex north district registry of deeds;

44 (11) a certain parcel of land located in the town of Marlborough at 525 Maple street, containing  
45 approximately 0.95 acres, together with any buildings and structures thereon, formerly known as the  
46 registry of motor vehicles;

47 (12) a certain parcel of land located in the town of Middleboro, containing approximately 34 acres  
48 of land, together with any buildings or structures thereon;

49 (13) a certain parcel of land located in the city of New Bedford at 593 Kempton street, together  
50 with any buildings and structures thereon, formerly known as the Bristol county jail, described in book  
51 2659, page 15, in the Bristol county registry of deeds, and further shown on New Bedford assessors map  
52 57, lot 201;

53 (14) a certain parcel of land located in the city of New Bedford at 5 Sycamore street, together with  
54 any buildings and structures thereon formerly known as the New Bedford armory;

55 (15) a certain parcel of land located in the town of Norton between the east side of Hill street and  
56 the southerly side of South Washington street, containing approximately 45 acres, together with any  
57 buildings and structures thereon, being a portion of a parcel of land identified as "Area To Be Retained 63.9  
58 Acres" shown on a plan entitled "Plan Showing Land In Norton, Mass. To Be Conveyed By The  
59 Commonwealth of Mass. To The Town Of Norton" on file with the division of capital asset management  
60 and maintenance;

61 (16) a certain parcel of land located in the town of Plymouth at 76 Court street together with any  
62 buildings and structures thereon, formerly known as the armory;

63 (17) a certain parcel of land located in the city of Pittsfield at 359 East street, together with any  
64 buildings and structures thereon, formerly known as the "William Russell Allen House";

65 (18) a certain parcel of land located in the city of Springfield at 288 Tyler street containing  
66 approximately 0.25 acres, together with any buildings and structures thereon.;

67 (19) a certain parcel of land located in the town of West Boylston containing approximately 20  
68 acres, together with any buildings and structures thereon, formerly known as the county hospital; and

69 (20) certain parcels of land located at the former Lyman School For Boys in the town of  
70 Westborough, together with any buildings and structures thereon, designated as parcels B, C, D, G and J, as  
71 generally defined and described in sections 2, 3, 4, 7 and 10 of chapter 660 of the acts of 1987.

72 (c) The exact boundaries of the parcels described in subsection (b) shall be determined by the  
73 commissioner of capital asset management and maintenance after completion of a survey.

74 (d) Notwithstanding any general or special law to the contrary, the grantee or lessee of any  
75 property identified in subsection (b) shall be responsible for all costs and expenses including, but not  
76 limited to, costs associated with any engineering, surveys, appraisals and deed preparation related to the  
77 conveyances and transfers authorized in this section as such costs may be determined by the commissioner  
78 of capital asset management and maintenance.

79 (e) The commissioner may retain or grant rights of way or easements for access, egress, utilities  
80 and drainage across any of the parcels and across other commonwealth property contiguous to any of the  
81 parcels, and the commonwealth may accept from a developer such rights of way or easements in roadways  
82 or across any of the parcels to be conveyed or transferred for access, egress, drainage and utilities as the  
83 commissioner considers necessary and appropriate to carry out this section.

84 (f) Each parcel shall to be conveyed or leased shall be conveyed or leased without warranties or  
85 representations by the commonwealth. Notwithstanding any general or special law to the contrary, the  
86 proceeds of all conveyances and transfers under this section shall be deposited in the General Fund.

87 (g) Notwithstanding any general or special law to the contrary, the commissioner of capital asset  
88 management and maintenance may transfer to the Massachusetts department of transportation care and  
89 custody of a portion of that certain parcel of land designated as parcel L in section 12 of chapter 660 of the  
90 acts of 1987. This transfer shall be subject to easements or restrictions that the commissioner may select,  
91 shall be without consideration, and shall not be subject to chapter 7 of the General Laws.

1 SECTION 105. Chapter 421 of the acts of 1991 is repealed.

1 SECTION 106. Chapter 305 of the acts of 1994 is repealed.

#### **Unexpended Trust Fund Transfer**

1 SECTION 107. Notwithstanding any general or special law to the contrary, upon receiving a  
2 written request from the secretary of administration and finance, the comptroller shall transfer to the  
3 General Fund the unexpended balance of a fund, trust fund or other separate account, in existence on April  
4 1, 2010, whether established administratively or by law, including a separate account established under  
5 section 6 of chapter 6A of the General Laws or section 4F of chapter 7 of the General Laws; provided,  
6 however, that the secretary and comptroller shall report to the house and senate committees on ways and  
7 means 45 days before any transfer. The request shall certify that the secretary, in consultation with the  
8 comptroller, has determined this balance not to be necessary for the purposes for which it was made  
9 available.

#### **Combined Purchasing**

1 SECTION 108. (a) Notwithstanding any general or special law to the contrary, a state agency who  
2 purchases drug testing equipment shall be required to purchase the equipment through the use of the  
3 statewide contract maintained by the operational services division if it is the most cost efficient means of  
4 purchase.

5 (b) Notwithstanding any general or special law to the contrary, a state agency that purchases  
6 electronic monitoring devices, including, but not limited to, global positioning systems, shall be required to  
7 purchase the equipment through the use of the contract maintained by the commissioner of probation if the  
8 terms of that contract provide the most cost efficient means of purchase; provided, however, that the  
9 operational services division shall conduct a feasibility study of creating a statewide contract for the  
10 devices.

#### **Civil Infraction Commission**

1 SECTION 109. Notwithstanding any general or special law to the contrary, the members of the  
2 commission established by section 6 of chapter 54 of the acts of 2005, shall be appointed not later than  
3 October 1, 2010 and shall commence work by November 1, 2010; provided, however, that the commission  
4 shall file the first annual report regarding the commission's activities and any legislative recommendations  
5 to the house and senate committees on ways and means not later than April 1, 2011; and provided further,



6 that subsequent annual reports shall be filed with the house and senate committees on ways and means not  
7 later than December 31 of each year.

### **Massachusetts Risk Assessment Commission**

1 SECTION 110. (a) Notwithstanding any other general law or special law to the contrary, there  
2 shall be a Massachusetts risk assessment commission which shall create and implement a unified risk  
3 assessment tool for the purpose of evaluating individuals for court ordered or post-release supervision.

4 (b) The Massachusetts risk assessment commission shall consist of the following members or their  
5 designees: the Attorney General, who shall serve as chair; the commissioner of probation; the chief justice  
6 of administration and management of the department of the trial court; the executive director of community  
7 corrections; the secretary of public safety and security; the chairman of the parole board; the commissioner  
8 of the department of corrections; the president of the Massachusetts Sheriff's Association; the president of  
9 the Massachusetts District Attorneys Association; the chief counsel for the committee for public counsel  
10 services; and a licensed forensic psychologist to be appointed by the governor.

11 (c) In developing the unified risk assessment tool the commission shall take into account current  
12 academic research, American Parole and Probation Association recommendations on risk assessment, the  
13 risk assessment procedures and processes of other states, existing risk assessment tools in the  
14 commonwealth and the cost of implementation.

15 (d) The commission shall commence work not later October 1, 2010 and shall complete work not  
16 later than April 1, 2011, with recommendations for the implementation of a unified risk assessment tool for  
17 the executive office of public safety and security, the trial court, the office of probation, the office of  
18 community corrections and sheriffs.

### **Intercity High-Speed Rail Plan**

1 SECTION 111. (a) The Massachusetts Department of Transportation shall prepare and issue a plan  
2 for an intercity high-speed rail network that includes recommendations for the development and  
3 implementation of a high-speed rail system; provided, however, that the recommendations shall consider  
4 federal, state and local activities necessary to implement the plan.

5 (b) The Massachusetts Department of Transportation may, to the extent feasible, coordinate high-  
6 speed rail planning activities with the transportation departments of other New England states, in order to  
7 streamline plans, policies, priorities, possible funding mechanisms and timelines for the development of  
8 high-speed rail. The Department shall utilize and build upon, with the goal of improvement, any previously  
9 developed passenger or high-speed rail plans to meet the reporting deadline; provided, however, that the  
10 plan shall include preliminary recommendations for the implementation of the best design, construction,  
11 operation, and maintenance for an intercity high-speed rail-system with connections to bordering states and  
12 Canadian provinces. The plan shall comply with federal guidelines, definitions and recommendations  
13 including those provided by the United States department of Transportation's vision for high-speed rail in  
14 America; provided, however, that the plan shall include recommendations for integrating the high-speed  
15 rail system into existing and planned Amtrak expansions, airports, and public transportation systems. The  
16 plan shall include recommendations for possible funding sources, including private capital, revenue bonds  
17 and a specific structure for public-private partnerships; provided, however, that the plan shall include  
18 specific recommendations including any necessary state or federal legislation or regulations required to  
19 implement the recommended high-speed rail system. The department shall provide its report to the  
20 governor, the house and senate committees on ways and means, the joint committee on transportation, and  
21 published on the Massachusetts Department of Transportation website not later than May 2, 2011.

22 (c) After the May 2, 2011 reporting deadline, the department shall provide, a supplemental report;  
23 provided, however, that the supplemental report shall include public and stakeholder input on  
24 recommendations related to the building, designing, maintaining, operating and financing of a high-speed

intercity rail system with connections to bordering states and Canadian provinces; provided further, that the department will to the extent possible, consult and coordinate with the transportation departments of other New England states and bordering Canadian provinces; provided further, that the department shall hold at least 1 public hearing to receive testimony from global high-speed rail operators, including without limitation to Amtrak; provided further, that the plan must include the solicitation and receipt of formal expressions of interest and other testimony from global high-speed rail operators including without limitation to Amtrak; provided further, that representatives of New England states shall be invited and encouraged to attend the public hearing and provide testimony; and provided further, that the supplemental report shall be filed with the governor, the house and senate committees on ways and means, the joint committee on transportation and published on the Massachusetts Department of Transportation website not later than January 30, 2012.

### **Initial Gross Payments to Qualifying Acute Care Hospitals**

SECTION 112. Notwithstanding any general or special law to the contrary, not later than October 1, 2010 and without further appropriation, the comptroller shall transfer from the General Fund to the Health Safety Net Trust Fund established in section 36 of chapter 118G of the General Laws, the greater of \$45,000,000 or 1/12 of the total expenditures to hospitals and community health centers, for the purposes of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2010. These payments shall be made to hospitals before, and in anticipation of, the payment by hospitals of their gross liability to the Health Safety Net Trust Fund. The comptroller shall transfer from the Health Safety Net Trust Fund to the General Fund, not later than June 30, 2011, the amount of the transfer authorized by this section and any allocation thereof as certified by the director of the health safety net office.

### **Out-of-State Tuition Retention II**

SECTION 113. (a) Notwithstanding any general or special law to the contrary, the University of Massachusetts system and the president of the university shall retain all tuition for out-of-state students in the University of Massachusetts system and the board of trustees for the University of Massachusetts shall promulgate regulations to allow the administration of each campus to retain all tuition paid by students who are not residents of the commonwealth. The regulations shall ensure that no resident of the commonwealth is denied admission to any campus as a result of the tuition retention program.

(b) All out-of-state tuition and fees received by the board of trustees at Bridgewater State College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(c) All out-of-state tuition and fees received by the board of trustees at Fitchburg State College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(d) All out-of-state tuition and fees received by the board of trustees at Framingham State College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate

27 regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as  
28 measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close  
29 of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the  
30 General Fund.

31 (e) All out-of-state tuition and fees received by the board of trustees at Salem State College shall  
32 be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the  
33 board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the  
34 college as a result of the tuition retention program. The board of higher education shall promulgate  
35 regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as  
36 measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close  
37 of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the  
38 General Fund.

39 (f) All out-of-state tuition and fees received by the board of trustees at Westfield State College  
40 shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as  
41 the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to  
42 the college as a result of the tuition retention program. The board of higher education shall promulgate  
43 regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as  
44 measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close  
45 of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the  
46 General Fund.

47 (g) All out-of-state tuition and fees received by the board of trustees at Worcester State College  
48 shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as  
49 the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to  
50 the college as a result of the tuition retention program. The board of higher education shall promulgate  
51 regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as  
52 measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close  
53 of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the  
54 General Fund.

55 (h) All out-of-state tuition and fees received by the board of trustees at Berkshire Community  
56 College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be  
57 expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied  
58 admission to the college as a result of the tuition retention program. The board of higher education shall  
59 promulgate regulations to ensure the campus maintains adequate access for qualified residents the  
60 commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the  
61 trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall  
62 not revert to the General Fund.

63 (i) All out-of-state tuition and fees received by the board of trustees at Bristol Community College  
64 shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as  
65 the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to  
66 the college as a result of the tuition retention program. The board of higher education shall promulgate  
67 regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as  
68 measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close  
69 of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the  
70 General Fund.

71 (j) All out-of-state tuition and fees received by the board of trustees at Bunker Hill Community  
72 College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be  
73 expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied  
74 admission to the college as a result of the tuition retention program. The board of higher education shall  
75 promulgate regulations to ensure the campus maintains adequate access for qualified residents of the  
76 commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the

trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(k) All out-of-state tuition and fees received by the board of trustees at Cape Cod Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(l) All out-of-state tuition and fees received by the board of trustees at Greenfield Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(m) All out-of-state tuition and fees received by the board of trustees at Holyoke Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(n) All out-of-state tuition and fees received by the board of trustees at Massachusetts Bay Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(o) All out-of-state tuition and fees received by the board of trustees at Massasoit Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(p) All out-of-state tuition and fees received by the board of trustees at Middlesex Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(q) All out-of-state tuition and fees received by the board of trustees at Mount Wachusett Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(r) All out-of-state tuition and fees received by the board of trustees at North Shore Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(s) All out-of-state tuition and fees received by the board of trustees at Northern Essex Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(t) All out-of-state tuition and fees received by the board of trustees at Quinsigamond Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(u) All out-of-state tuition and fees received by the board of trustees at Roxbury Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(v) All out-of-state tuition and fees received by the board of trustees at Springfield Technical Community College shall be retained by the board of trustees of the institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention program. The board of higher education shall promulgate regulations to ensure the campus maintains adequate access for qualified residents of the commonwealth, as measured by the ratio of out-of-state students to in-state students. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(w) Notwithstanding any general or special law to the contrary, for employees of public higher education institutions who are paid from tuition retained pursuant to this section, fringe benefits shall be

177 funded as if those employees' salaries were supported by state appropriations. This section shall apply only  
178 to fringe benefits associated with salaries paid from tuition retained by the respective boards of trustees for  
179 the University of Massachusetts system, Bridgewater State College, Fitchburg State College, Framingham  
180 State College, Salem State College, Westfield State College, Worcester State College, Berkshire  
181 Community College, Bristol Community College, Bunker Hill Community College, Cape Cod Community  
182 College, Greenfield Community College, Holyoke Community College, Massachusetts Bay Community  
183 College, Middlesex Community College, Mount Wachusett Community College, North Shore Community  
184 College, Northern Essex Community College, Quinsigamond Community College, Roxbury Community  
185 College and Springfield Technical Community College, as a direct result of the implementation of this  
186 section.

187 (x) The respective boards of trustees for the University of Massachusetts system, Bridgewater  
188 State College, Fitchburg State College, Framingham State College, Salem State College, Westfield State  
189 College, Worcester State College, Berkshire Community College, Bristol Community College, Bunker Hill  
190 Community College, Cape Cod Community College, Greenfield Community College, Holyoke Community  
191 College, Massachusetts Bay Community College, Middlesex Community College, Mount Wachusett  
192 Community College, North Shore Community College, Northern Essex Community College,  
193 Quinsigamond Community College, Roxbury Community College, and Springfield Technical Community  
194 College shall each issue an annual report on the progress of this initiative not later than February 1 of each  
195 year to the chairs of the joint committee on higher education, the chairs of the house and senate committees  
196 on ways and means and the executive office of administration and finance. The report shall include the  
197 number of out-of-state students attending the school, the amount of tuition revenue retained under the  
198 program and any programs or initiatives funded with the retained revenue.

#### **Paperless Reporting Requirement**

1 SECTION 114. Notwithstanding any general or special law to the contrary, all secretariats,  
2 departments and agencies required to report under this act shall file their reports by the date named in this  
3 act via electronic means to the chairs of any committees named as recipients as well as with the clerks of  
4 the house and senate; provided, however, that the house and senate clerks shall develop procedures and  
5 requirements for secretariats, departments and agencies for the preparation of the reports to facilitate their  
6 collection and storage and they shall be made available to the public via the legislature's website.

#### **Springfield Trust Fund Transfer**

1 SECTION 115. Notwithstanding any general or special law to the contrary, the comptroller shall  
2 transfer \$33,500,000 from the Commonwealth of Massachusetts Springfield Promise Program Expendable  
3 Trust to the General Fund subject to a transfer schedule to be developed in consultation with the city of  
4 Springfield.

#### **Continuation of Programs**

1 SECTION 116. The following agencies or authorities shall contribute the amounts below for  
2 programs or services in fiscal year 2011:

3 (a) The Massachusetts Housing Finance Authority, \$2,700,000 for the Massachusetts rental  
4 voucher program;

5 (b) The Massachusetts Development Finance Authority, \$3,000,000 for the Massachusetts  
6 cultural council, \$700,000 for Massachusetts office of business development small business technical  
7 assistance grants and \$335,000 for the permitting office;

8 (c) The Massachusetts Educational Finance Authority, \$1,000,000 for the McNair Scholarship  
9 Program;

- 10 (d) The Massachusetts Housing Partnership, \$2,000,000 for the Soft Second Mortgage Program;
- 11 (e) The Massachusetts Convention Center Authority, \$5,000,000 for the Office of Travel and  
12 Tourism Marketing Program;
- 13 (f) The Massachusetts Technology Collaborative, \$500,000 for Massachusetts science,  
14 technology, engineering, and mathematics grants, \$300,000 for the office of trade, \$500,000 for innovation  
15 initiatives and \$275,000 for the department of housing and economic development's broadband initiative;
- 16 (g) The Massachusetts Port Authority, \$300,000 for the office of trade;
- 17 (h) The University of Massachusetts, \$541,000 for the Collins Center;
- 18 (i) The Massachusetts Life Sciences Center, \$210,000 for the Massachusetts Biotech Research  
19 Institute.

#### **Teacher Retirement Assessment Exemption**

1 SECTION 117. Notwithstanding any general or special law to the contrary, federal grant funds in  
2 items 7061-0004 and 7061-0005 distributed to school districts in fiscal year 2011 through the State Fiscal  
3 Stabilization Fund under Title XIV of the American Reinvestment and Recovery Act of 2009 shall not be  
4 subject to indirect charges under section 32A of chapter 35 of the General Laws and section 5D of chapter  
5 40 of the General Laws. Subsection (f) of section 6B of chapter 29 of the General Laws shall not apply to  
6 these funds. School districts shall continue to provide for and make contributions to appropriate pension  
7 funds, as required by paragraph (c) of subdivision (7) of section 22 of chapter 32 of the General Laws, for  
8 employees whose salaries are paid from these federal funds in the same manner as contributions are made  
9 when receiving state education aid under chapter 70 of the General Laws.

#### **Trial Court Transferability**

1 SECTION 118. Notwithstanding clause (xxiii) of the third paragraph of section 9 of chapter 211B  
2 of the General Laws or any other general or special law to the contrary, the chief justice for administration  
3 and management may, from the effective date of this act through April 29, 2011, transfer funds from any  
4 item of appropriation within the trial court, except items 0339-1001, 0339-1003, 0339-1007 and 0339-1009  
5 to any other item of appropriation within the trial court, except items 0339-1001, 0339-1003, 0339-1007  
6 and 0339-1009. These transfers shall be made in accordance with schedules submitted to the house and  
7 senate committees on ways and means. The schedule shall include: (1) the amount of money transferred  
8 from any item of appropriation to any other item of appropriation; (2) the reason for the necessity of the  
9 transfer; and (3) the date on which the transfer shall be completed. A transfer under this section shall not  
10 occur until 10 days after the revised funding schedules have been submitted in written form to the house  
11 and senate committees on ways and means.

#### **Tobacco Settlement Transfer**

1 SECTION 119. Notwithstanding section 1 of chapter 29D of the General Laws or any general or  
2 special law to the contrary, all payments received by the commonwealth in fiscal year 2011 pursuant to the  
3 master settlement agreement in Commonwealth of Massachusetts v. Philip Morris, Inc. et. al., Middlesex  
4 Superior Court, No. 95-7378, shall be deposited in the General Fund. The comptroller shall transfer all the  
5 earnings generated in fiscal year 2011 from the Health Care Security Trust Fund, as certified under  
6 subsection (f) of section 3 of said chapter 29D, to the General Fund.

#### **Nursing and Resident Care Facility Base Year**

1 SECTION 120. Notwithstanding any general or special law to the contrary, nursing facility and  
2 resident care facility rates effective July 1, 2010 under section 7 of chapter 118G of the General Laws may  
3 be developed using the costs of calendar year 2005.

#### **Suspension of Tourism Formula**

1 SECTION 121. Notwithstanding any general or special law to the contrary, the formula for  
2 application of funds provided in section 35J of chapter 10 of the General Laws shall not apply in fiscal year  
3 2011.

#### **Life Sciences Transfer from FY10 Surplus**

1 SECTION 122. (a) Notwithstanding any general or special law to the contrary, after complying  
2 with clause (a) of section 5C of chapter 29 of the General Laws, the comptroller shall dispose of the  
3 consolidated net surplus in the budgetary funds for fiscal year 2010 by transferring: (i) \$10,000,000 from  
4 the General Fund to the Massachusetts Life Sciences Investment Fund established in section 6 of chapter  
5 23I of the General Laws; and (ii) the remaining balance from the General Fund to the Commonwealth  
6 Stabilization Fund.

7 (b) All transfers pursuant to this section shall be made from the undesignated fund balances in the  
8 budgetary funds proportionally from the undesignated fund balances, but no such transfer shall cause a  
9 deficit in any of the funds.

#### **Chronic Disease Management for MassHealth PCC Members**

1 SECTION 123. Notwithstanding any general or special law to the contrary, the executive office of  
2 health and human services shall establish a chronic disease management program for members enrolled in  
3 the MassHealth primary care clinician program to better manage and improve the quality of care for  
4 members suffering from chronic conditions. The chronic disease management program shall be designed  
5 to ensure a financial return on investment in fiscal year 2011 through the reduction of health care costs for  
6 patients with chronic diseases. Any contract with a private vendor to provide disease management services  
7 shall include a requirement that such vendor share the risk for its fees if return on investment targets are not  
8 met. The executive office shall pursue any opportunities for federal grants to support funding this program.

9 The executive office shall submit to the joint committee on health care financing, the joint  
10 committee on public health and the house and senate committees on ways and means a report on the status  
11 of this program including, but not limited to data detailing adherence to evidence-based guidelines, hospital  
12 admission rates, emergency room utilization, clinical outcomes and cost effectiveness of the program not  
13 later than December 31, 2012.

#### **Nursing Home Assessment**

1 SECTION 124. Notwithstanding any general or special law to the contrary, the nursing home  
2 assessment required by subsection (b) of section 25 of chapter 118G of the General Laws shall be sufficient  
3 in the aggregate to generate \$220,000,000 in fiscal year 2011.

#### **Interagency Service Agreement between UMass and HHS**

1 SECTION 125. Notwithstanding any general or special law to the contrary, the executive office of  
2 health and human services, acting in its capacity as the single state agency under Title XIX of the Social  
3 Security Act and as the principal agency for all of the agencies within the executive office and other  
4 federally-assisted programs administered by the executive office, may enter into interdepartmental services  
5 agreements with the University of Massachusetts Medical School to perform activities that the secretary of



6 health and human services, in consultation with the comptroller, determines appropriate and within the  
7 scope of the proper administration of said Title XIX and other federal funding provisions to support the  
8 programs and activities of the executive office. The activities may include: (1) providing administrative  
9 services including, but not limited to, providing the medical expertise to support or administer utilization  
10 management activities, determining eligibility based on disability, supporting case management activities  
11 and similar initiatives; (2) providing consulting services related to quality assurance, program evaluation  
12 and development, integrity and soundness and project management; and (3) providing activities and  
13 services for the purpose of pursuing federal reimbursement or avoiding costs, third-party liability and  
14 recouping payments to third parties. Federal reimbursement for any expenditures made by the University  
15 of Massachusetts Medical School relative to federally-reimbursable services the university provides under  
16 these interdepartmental service agreements or other contracts with the executive office shall be distributed  
17 to the university and recorded distinctly in the state accounting system. The secretary may negotiate  
18 contingency fees for activities and services related to pursuing federal reimbursement or avoiding costs and  
19 the comptroller shall certify these fees and pay them upon the receipt of this revenue, reimbursement or  
20 demonstration of costs avoided. Contracts for contingency fees shall not exceed 3 years and shall not be  
21 renewed without prior review and approval from the executive office for administration and finance. The  
22 secretary shall not pay contingency fees in excess of \$40,000,000 for state fiscal year 2011; provided,  
23 however, that contingency fees paid to the University of Massachusetts Medical School under the terms of  
24 an interagency service agreement for recoveries related to the special disability workload projects shall be  
25 excluded from that \$40,000,000 limit for fiscal year 2011. The secretary of health and human services  
26 shall submit to the secretary of administration and finance and the senate and house committees on ways  
27 and means a quarterly report detailing the amounts of the agreements, the ongoing and new projects  
28 undertaken by the university, the amounts expended on personnel and the amount of federal reimbursement  
29 and recoupment payments that the university collected.

#### **State and Community College Payment Preference**

1 SECTION 126. Notwithstanding any general or special law to the contrary, the commonwealth's  
2 state and community colleges shall not give preference for placement to applicants in enrollment or in any  
3 program based on the applicant's payment in excess of tuition and fees.

#### **Bureau of Forest Fire Control Study**

1 SECTION 127. (a) Notwithstanding any general or special law to the contrary, there shall be a  
2 special commission to investigate and study the feasibility of transferring the bureau of forest fire control  
3 under the department of conservation and recreation to the department of fire services. The commission  
4 shall consist of 3 members of the senate, 1 of whom shall be the senate chair of the joint committee on  
5 public safety and homeland security, 1 of whom shall be the senate chair of the joint committee on  
6 environment, natural resources and agriculture, and 1 of whom shall be a member of the minority party  
7 who shall be appointed by the minority leader; provided, however, that 1 member of the senate shall be  
8 designated as co-chair of the commission; 3 members of the house of representatives, 1 of whom shall be  
9 the house chair of the joint committee on public safety and homeland security, 1 of whom shall be the  
10 house chair of the joint committee on environment, natural resources and agriculture and 1 of whom shall  
11 be a member of the minority party who shall be appointed by the minority leader; provided, however, that 1  
12 member of the house shall be designated as co-chair of the commission; the secretary of the executive  
13 office of administration and finance, or his designee; the secretary of the executive office of public safety  
14 and security, or her designee; the secretary of the executive office of energy and environmental affairs, or  
15 his designee; a representative of the Massachusetts Forest Fire Council; and a representative of the wildland  
16 interface committee of the International Association of Fire Chiefs.

17 (b) The special commission shall make an investigation and study of the bureau of forest fire  
18 control including, but not limited to: (1) the feasibility of transferring the bureau from the department of  
19 conservation and recreation to the department of fire services, including the impact on personnel, the  
20 seasonal employment program, equipment, collective bargaining agreements and federal grant funding; (2)  
21 a determination of adequate staffing levels for the observation towers during the high season for forest

22 fires; and (3) any other matters that the special commission considers relevant to the fulfillment of its  
23 mission and purpose.

24 (c) The special commission shall make its final report and recommendations, if any, together with  
25 drafts of legislation necessary to carry those recommendations into effect, by filing the same with the joint  
26 committee on environment, natural resources and agriculture not later than December 1, 2010. The special  
27 commission may make such interim reports as it considers appropriate.

### **Protecting the Rights of Victims and Witnesses of Crimes II**

1 SECTION 128. There shall be a task force established to conduct a court-by-court assessment and  
2 develop an implementation plan regarding the designation or creation of separate and secure waiting areas  
3 in district and superior courthouse for victims and witnesses of crimes, as required under clause (i) of the  
4 first paragraph of section 3 and section 17 of chapter 211B.

5 The task force shall be chaired by both the executive director of the Massachusetts office for  
6 victim assistance and the chief justice for administration and management or their designees; the task force  
7 shall include, but not be limited to: the chair of the victim and witness assistance board or her designee; 1  
8 victim, public member of the victim and witness assistance board chosen by the chair; 1 community-based  
9 victim services provider chosen by the executive director of the Massachusetts office for victim assistance;  
10 the commissioner of capital asset management or a designee; 1 district attorney victim witness program  
11 director to be chosen by the president of the Massachusetts District Attorneys Association; 1 representative  
12 from the court clerks chosen by the chief justice for administration and management; 1 representative of the  
13 chief probation officers to be chosen by the commissioner of probation; 1 representative of the  
14 administrative office of the trial court fiscal department chosen by the chief justice for administration and  
15 management; and 1 representative of the court facilities department chosen by the chief justice for  
16 administration and management. Additional members may be appointed by the governor in consultation  
17 with the co-chairs of the task force.

18 The task force shall convene no later than January 1, 2011 and develop a plan for conducting the  
19 court-by-court assessment and a timeline to guide the completion of the implementation plan. The  
20 implementation plan shall include, but not be limited to: a definition of a separate and secure waiting area  
21 under clause (i) of the first paragraph of section 3 of chapter 258B; a list of courthouses that do and do not  
22 have separate and secure waiting areas that meet the definition; the feasibility of allocating existing space  
23 for use as a separate and secure waiting area in those courts that do not have waiting areas; a  
24 comprehensive fact-based analysis of the fiscal and operational impacts, if any, of such allocations; a  
25 recommendation on who would staff the safe and secure waiting areas; the fiscal impact of such staffing  
26 recommendations, if any; a timeline for designating or creating the spaces in those courthouses in which  
27 allocation of such space is deemed feasible; the sequence in which separate and secure waiting areas shall  
28 be designated or created in courthouses in which the task force has determined that such allocation is  
29 feasible; and a recommendation for interim accommodations, where allocation of such space is not deemed  
30 immediately feasible and such interim accommodations are practicable. For those district and superior  
31 courthouses undergoing new construction or substantial renovation as defined by the task force, the  
32 separate and secure waiting areas shall be included in the final plans and completed construction. The task  
33 force chairs shall file an implementation progress report every 365 days and a final plan to the chairs of the  
34 house and senate ways and means committees, the senate and house chairs of the joint committee on the  
35 judiciary and the clerks of the senate and house of representatives. The task force shall complete the  
36 implementation plan and file the plan with the chairs of the house and senate ways and means committees,  
37 the chairs of the house and senate judiciary committee, and the clerks of the house and the senate not later  
38 than January 1, 2012.

### **Ulin Ice Rink Lease**

1 SECTION 129. (a) Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55,  
2 inclusive, of chapter 7 of the General Laws, the division of capital asset management and maintenance,  
3 using those competitive proposal processes as the division considers necessary or appropriate, in

4 consultation with the department of conservation and recreation, may lease and enter into other agreements  
5 with one or more persons or entities, for terms not to exceed 25 years, for the continued use, operation,  
6 maintenance, repair and improvement of the Max Ulin Memorial Rink, together with the land and  
7 appurtenances associated therewith.

8 (b) The failure of a city or town to apply for prequalification, as set forth below, shall not prohibit  
9 that city or town from bidding under this section.

10 (c) Before the division, in consultation with the department, sends out a request for proposals  
11 under this section, the division shall hold open a prequalification period of 30 days for the town of Milton  
12 and any nonprofit organization that desires to bid on the rink located within the town of Milton, or for a  
13 partnership of municipalities which share geographic boundaries as long as the subject rink is located  
14 within the geographic area of the municipalities comprising the partnership. A city, town, nonprofit  
15 organization or partnership of municipalities that desires to lease the rink under this section may submit  
16 materials for prequalification. The prequalification determination may consider, but need not be limited to,  
17 the city's, town's, nonprofit organization's or partnership's ability to finance the capital improvements  
18 determined to be necessary at the rink by the division and to manage, operate and maintain the property.  
19 The division, in consultation with the department, shall determine whether a city, town, nonprofit or  
20 partnership is prequalified within 15 days of the expiration of the prequalification period. If a city, town,  
21 nonprofit organization or partnership is determined to be prequalified, that city, town, non-profit  
22 organization or partnership shall be awarded the lease for the rink under the terms and conditions set forth  
23 in this section. If a city, town, nonprofit organization or partnership is determined to be prequalified, that  
24 city, town, non-profit organization or partnership shall pay consideration for a lease subject to the required  
25 capital improvements, performance specifications and other prequalification requirements and terms of the  
26 division and submitted proposal. The length of the lease shall be determined between the division and the  
27 city, town, nonprofit organization or partnership.

28 (d) The lease and other agreements shall be on terms acceptable to the commissioner of capital  
29 asset management and maintenance, after consultation with the commissioner of conservation and  
30 recreation and, notwithstanding any general or special law to the contrary, shall provide for the lessees to  
31 operate, manage, improve, repair and maintain the property and to undertake initial capital improvements  
32 that commissioner determines are necessary due to the structural condition of the property. Leases or other  
33 arrangements requiring improvements to be made on the property may include a description of the initially  
34 required improvements and performance specifications.

35 (e) Ice time at the rink shall be allocated to user groups in the following order of priority: general  
36 public skating; non-profit youth groups; high school hockey; for-profit youth groups and adult  
37 organizations or informal groups. Ice time may be allocated at the discretion of the operator, but general  
38 public skating shall be booked, in 2-hour contiguous blocks at a minimum of 12 hours per week, with a  
39 range of times and days which reasonably allow for public skaters of all ages to participate in some public  
40 skating sessions. Every effort shall be made to balance the ice allocation needs of long-established youth  
41 organizations and newly-formed youth organizations in a manner that provides equal opportunity and equal  
42 access for youths of each gender.

43 (f) The leases and other agreements authorized in this section shall provide that any benefits to the  
44 community and the costs of improvements and repairs made to the property provided by the lessees or the  
45 recipients of the property shall be taken into account as part of the consideration for such leases or other  
46 agreements. Consideration received from the leases or other agreements for the rink shall be payable to the  
47 department of conservation and recreation for deposit into the General Fund. The lessees or the recipients  
48 of the property shall bear the costs considered necessary or appropriate by the commissioner of  
49 conservation and recreation for the transactions including, without limitation, costs for legal work, survey,  
50 title and the preparation of plans and specifications.

51 (g) The name of the Max Ulin Memorial rink shall not be altered or changed under any lease or  
52 agreement entered into pursuant to this section.

## **Roadwork Details Administrative Fees**

1       SECTION 130. Notwithstanding any general or special law to the contrary the administrative fee  
2 charged as part of any contract to provide traffic details, whether by a police officer or a civilian, shall not  
3 exceed 10 per cent of the hourly rate paid to the persons providing the traffic detail service.

## **Lease Renegotiation**

1       SECTION 131. Notwithstanding any general or special law to the contrary, the division of capital  
2 asset management and maintenance shall submit a report including, but not limited to, the following  
3 information: (a) the total number of lease renegotiation requests received by the division from state  
4 agencies in fiscal years 2008, 2009 and 2010; (b) the number of leases that were renegotiated by the  
5 division resulting in a tangible benefit to the commonwealth; (c) the amount, in dollars, saved by the  
6 commonwealth due to lease renegotiations conducted by the division; (d) the reasons that leases could not  
7 be renegotiated to produce a tangible benefit to the commonwealth; and (e) recommendations relative to  
8 improving the lease renegotiation process. Said division shall submit its report not later than October 15,  
9 2011 to the house and senate committees on ways and means and the joint committee on state  
10 administration and regulatory oversight.

## **SNAP Outreach**

1       SECTION 132. Notwithstanding any general or special law to the contrary, the department of  
2 transitional assistance may amend its supplemental nutrition assistance program outreach plan, in this  
3 section referred to as SNAP, to include SNAP application assistance and retention activities conducted by  
4 community-based organizations or other state agencies or departments. The department shall maximize  
5 federal reimbursement from the United States Department of Agriculture for funds identified by  
6 community-based organizations for SNAP application assistance and retention activities, including  
7 assistance and retention activities funded through private, state or community development block grants.  
8 The department may provide the federal reimbursements identified for SNAP outreach efforts to state  
9 agencies and departments and community-based organizations engaged in SNAP outreach efforts and for  
10 the administrative costs incurred by an agency, department or organization in claiming such federal  
11 reimbursements or for processing additional SNAP applications.

## **Inspector General's Health Safety Net Audit Unit**

1       SECTION 133. Notwithstanding any general or special law to the contrary, in hospital fiscal year  
2 2011, the office of the inspector general may continue to expend funds from the Health Safety Net Trust  
3 Fund, established in section 36 of chapter 118G of the General Laws, for the costs associated with  
4 maintaining a pool audit unit within the office. The unit shall continue to oversee and examine the practices  
5 in all hospitals including, but not limited to, the care of the uninsured and the resulting free care charges.  
6 The inspector general shall submit a report to the house and senate committees on ways and means on the  
7 results of the audits and any other completed analyses not later than March 1, 2011. For the purposes of  
8 these audits, allowable free care services shall be defined pursuant to said chapter 118G and any regulations  
9 adopted thereunder.

## **MassHealth and Commonwealth Care Dental Services**

1       SECTION 134. (a) Notwithstanding section 53 of chapter 118E of the General Laws, for fiscal  
2 year 2011, the executive office of health and human services may determine the extent to which to include  
3 within its covered services for adults the federally-optional dental services that were included in its state  
4 plan or demonstration program in effect on January 1, 2002, and the dental services that were covered for  
5 adults in the MassHealth basic program as of January 1, 2002.

6       (b) Notwithstanding subsection (a) of section 6 of chapter 118H of the General Laws, for fiscal  
7 year 2011, medically necessary dental services covered through health insurance plans procured by the

8 board of the health insurance connector authority for any resident with a household income that does not  
9 exceed 100 per cent of the federal poverty level shall include preventative procedures but shall exclude  
10 those categories of services that are not provided through MassHealth.

### **Commonwealth Care Bridge Reauthorization**

1 SECTION 135. (a) Notwithstanding any general or special law to the contrary and except as  
2 provided in subsection (b), an eligible individual pursuant to section 3 of chapter 118H of the General Laws  
3 shall not include a person who is not eligible to receive federally-funded benefits under sections 401, 402  
4 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-  
5 193, as amended, for fiscal year 2011.

6 (b) Notwithstanding any general or special law to the contrary, the secretary of administration and  
7 finance, the secretary of health and human services and the executive director of the health insurance  
8 connector authority may, in their discretion and subject only to the terms and conditions in this subsection,  
9 establish or designate a health insurance plan in which a person who is not eligible to receive federally-  
10 funded benefits under said sections 401, 402 or 403 of the Personal Responsibility and Work Opportunity  
11 Reconciliation Act of 1996, Public Law 104-193, as amended, but who is an eligible individual pursuant to  
12 said section 3 of said chapter 118H may enroll for the period including July 1, 2010 to June 30, 2011,  
13 inclusive. The plan may be contracted for selectively from the health plans that contracted in fiscal year  
14 2010 to provide insurance coverage to commonwealth care or MassHealth enrollees. Total state costs of  
15 providing coverage to all such persons, net of enrollee contributions and any federal financial participation,  
16 shall not exceed \$60,000,000 for fiscal year 2011. To the extent that additional federal financial  
17 participation becomes available for paying the costs of such coverage, the secretary of administration and  
18 finance may direct the comptroller to make such amounts available from the General Fund for the purpose  
19 of paying for the costs of such coverage. If the secretary of administration and finance, the secretary of  
20 health and human services and the executive director of the health insurance connector authority determine  
21 that the projected costs of enrolling eligible individuals in such coverage in fiscal year 2011 will exceed net  
22 state costs of \$60,000,000, they may limit enrollment in such coverage. If the secretary of administration  
23 and finance, the secretary of health and human services and the executive director of the health insurance  
24 connector authority are unable to establish or designate a health insurance plan under this section, the  
25 secretary of administration and finance may direct the comptroller to transfer up to \$60,000,000 from the  
26 Commonwealth Care Trust Fund to the Health Safety Net Trust Fund for the cost of health safety net  
27 claims for these individuals.

### **Cancellation of Statutory Deposit to Stabilization Fund**

1 SECTION 136. Notwithstanding any general or special law to the contrary, during fiscal year  
2 2011, the comptroller shall not transfer 0.5 per cent of the total revenue from taxes in the preceding fiscal  
3 year to the Commonwealth Stabilization Fund, established in section 2H of chapter 29 of the General Laws.

### **Public School of Pharmacy Commission**

1 SECTION 137. There shall be a special commission to study the University of Massachusetts at  
2 Amherst and the University of Massachusetts at Lowell jointly establishing a public school of pharmacy.  
3 The commission shall consist of the president of the University of Massachusetts system or a designee who  
4 shall be the chair; the commissioner of higher education or a designee; the chair of the board of higher  
5 education or a designee; the chair of the University of Massachusetts board of trustees or a designee; a  
6 member of the University of Massachusetts board of trustees or a designee; the chancellor of the University  
7 of Massachusetts at Amherst or a designee; the chancellor of the University of Massachusetts Lowell or a  
8 designee; the commissioner of public health or a designee with experience in pharmaceutical science and  
9 the senate and house chairs of the joint committee on higher education. The commission shall convene its  
10 first official meeting not later than September 1, 2010.

11 The commission shall make a comprehensive study of the feasibility of establishing, as a joint  
12 venture between the University of Massachusetts at Amherst and the University of Massachusetts at

13 Lowell, a public school of pharmacy. The study shall include, but not be limited to: establishing a doctor of  
14 pharmacy degree program as well as graduate degree programs in pharmaceutical science; the needed  
15 additional resources and infrastructure necessary to build the appropriate curriculum and establish a school  
16 of pharmacy; the tuition and fees necessary to support a pharmacy program; a timeline for establishing a  
17 school of pharmacy; the start-up costs for establishing a school of pharmacy; a plan for the sharing of  
18 resources and costs by the University of Massachusetts at Amherst and the University of Massachusetts at  
19 Lowell; and the cost of any recommendations the commission may make.

20 The commission shall prepare a report of the findings and recommendations together with  
21 recommendations for legislation to implement those recommendations by filing the same with the clerks of  
22 the senate and house of representatives, the chairs of the house and senate committee on ways and means  
23 and the chairs on the joint committee of higher education not later than April 1, 2011.

### **High-risk Pediatric Asthma Payment Demonstration**

1 SECTION 138. Notwithstanding any general or special law to the contrary, the executive office of  
2 health and human services shall develop a global or bundled payment system for high-risk pediatric asthma  
3 patients enrolled in the MassHealth program, designed to prevent unnecessary hospital admissions and  
4 emergency room utilization. Consistent with the National Asthma Education and Prevention Program  
5 guidelines developed by the National Institutes of Health, the global or bundled payments shall reimburse  
6 expenses necessary to manage pediatric asthma, including, but not limited to, patient education,  
7 environmental assessments, mitigation of asthma triggers and purchase of necessary durable medical  
8 equipment. The executive office may pursue demonstration authority for this program from the federal  
9 center for Medicare and Medicaid Services pursuant to the Patient Protection and Affordable Care Act,  
10 Public Law 111-148 or other federal law. The global or bundled payments shall be designed to ensure a  
11 financial return on investment through the reduction of costs related to hospital and emergency room visits  
12 and admissions not later than 2 years after the effective date of this act. This high-risk pediatric asthma  
13 global or bundled payment demonstration project shall be piloted in communities with high rates of  
14 uncontrolled childhood asthma. The executive office of health and human services shall consult with the  
15 providers that manage the Community Asthma Initiative at Children's Hospital Boston and with other  
16 relevant providers in the commonwealth in designing and implementing the high-risk pediatric asthma  
17 global or bundled payment demonstration program and shall collaborate with participating entities in  
18 evaluating the efficacy of the program. The executive office of health and human services shall report its  
19 findings on the cost effectiveness of this program to the joint committee on health care financing, the joint  
20 committee on public health and the house and senate committees on ways and means not later than  
21 December 31, 2012.

### **Outreach and Enrollment Grants**

1 SECTION 139. The Commonwealth Health Insurance Connector Authority shall transfer  
2 \$2,500,000 to the executive office of health and human services for MassHealth Outreach Enrollment  
3 Grants in fiscal year 2011, to be administered by the executive office in consultation with the Health Care  
4 Reform Outreach and Education Unit. The grants shall be awarded to groups statewide, including areas in  
5 which the division of health care finance and policy has determined that there exists a high percentage of  
6 uninsured individuals and areas in which there are limited health care providers. Funds shall be awarded as  
7 grants to community and consumer-focused public and private nonprofit groups to provide enrollment  
8 assistance, education and outreach activities directly to consumers who may be eligible for MassHealth, the  
9 Commonwealth Care Program, the Commonwealth Choice Program or the Commonwealth Care Bridge  
10 Program and who may require individualized support due to geography, ethnicity, race, language, culture,  
11 immigration or disease.

### **State and Community College Borrowing**

1 SECTION 140. Notwithstanding any general or special law to the contrary, the state and  
2 community colleges, with the approval of the executive office for administration and finance and the board  
3 of higher education, may borrow an amount not to exceed \$50,000,000 in the aggregate through the

Massachusetts Health and Educational Facilities Authority or any other authorized funding source for support of projects authorized under chapter 258 of the acts of 2008 and which have undergone a project study by the division of capital asset management and maintenance, provided that any such project shall also be considered eligible for financing by the Massachusetts State College Building Authority as a "project" within the meaning of chapter 703 of the acts of 1963, as amended.

## **Chapter 70 Minimum Local Contributions**

SECTION 141. (a) Notwithstanding any general or special law to the contrary, upon the request of the board of selectmen in a town, the city council in a city with a plan E form of government or the mayor in any other city, the department of revenue may recalculate the minimum required local contribution, as defined in section 2 of chapter 70 of the General Laws, in the fiscal year ending June 30, 2011. Based on the criteria established in this section, the department shall recalculate the minimum required local contribution for a municipality's local and regional schools and shall certify the amounts calculated to the department of elementary and secondary education.

(b) A city or town that used qualifying revenue amounts in a fiscal year which will not be available for use in the next fiscal year or that will be required to use revenues for extraordinary non school-related expenses for which it did not have to use revenues in the preceding fiscal year or that has an excessive certified municipal revenue growth factor which is also greater than or equal to 1.5 times the state average municipal revenue growth factor may appeal to the department of revenue not later than October 1, 2010, for an adjustment of its minimum required local contribution and net school spending.

(c) If a claim is determined to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the minimum required local contribution on account of an extraordinary expense in the budget for the fiscal year ending June 30, 2011, shall affect the calculation of the minimum required local contribution in subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of free cash, overlay surplus and other available funds.

(d) If upon submission of adequate documentation the department of revenue determines that the municipality's claim regarding an excessive municipal revenue growth factor is valid, the department shall recalculate the municipal revenue growth factor and the department of elementary and secondary education shall use the revised growth factor to calculate the preliminary local contribution, the minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a result of an excessive municipal revenue growth factor shall be a permanent reduction in the minimum required local contribution.

(e) The board of selectmen in a town, the city council in a city with a plan E form of government, the mayor in any other city or a majority of the member municipalities of a regional school district which used qualifying revenue amounts in a fiscal year that will not be available for use in the next fiscal year may appeal to the department of revenue not later than October 1, 2010, for an adjustment to its net school spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

(f) If the regional school budget has already been adopted by 2/3 of the member municipalities then, upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of elementary and secondary education in accordance with this section.

(g) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other general or special law to the contrary, the amounts so determined pursuant to this section shall be the minimum required local contribution described in chapter 70 of the General Laws. The department of revenue and the department of elementary and secondary education shall notify the house and senate committees on ways and means and the joint committee on education of the amount of any reduction in the minimum required local contribution amount.

(h) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided in this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized by this section.

(i) The amount of financial assistance due from the commonwealth in fiscal year 2011 pursuant to chapter 70 of the General Laws or any other law shall not be changed on account of any redetermination of the minimum required local contribution pursuant to this section.

(j) The department of revenue and the department of elementary and secondary education shall issue guidelines for their respective duties pursuant to this section.

#### **Acquired and Traumatic Brain Injury Commission**

SECTION 142. (a) Notwithstanding any general or special law to the contrary, there shall be a special commission to investigate and study the rehabilitative, residential, and integrated community-based support services for persons with acquired brain injury and persons with traumatic brain injury in the commonwealth. The commission shall consist of the chairs of the joint committee on health care financing or their designees, who shall serve as co-chairs; 1 member of the house of representatives appointed by the minority leader; 1 member of the senate appointed by the minority leader; the secretary of health and human services or her designee; the assistant secretary for the office of disabilities and community services or his designee; the commissioner of public health or his designee from the office on health and disability; the commissioner of medical assistance or his designee; and 4 persons appointed by the governor. The target populations for the investigation shall be persons of all ages with neurocognitive and neurobehavioral deficits stemming from traumatic or acquired brain injury.

(b) The investigation and study shall include, but not be limited to, the availability, nature and adequacy of the following services for the target population: acute and long-term medical and cognitive rehabilitation and outpatient services; therapy services; residential nursing care; structured day treatment and day activity programs; club programs; respite care services; community-based housing; home-based services; family support programs; case management; companion services; personal care attendant services; specialized medical equipment and supplies; environmental modifications; counseling and training; and prevocational services.

(c) The commission shall file a report of its findings with the clerks of the house of representatives and the senate, and the house and senate committees on ways and means on or before April 1, 2011. The report shall include recommendations for improving services for people with acquired or traumatic brain injury, the cost of maintaining or establishing those services, and any legislation necessary to implement or allow for the development or expansion of services for the target population.

#### **Special Commission on Police Career Incentives**

SECTION 143. (a) There shall be a special commission on police career incentives consisting of 3 members of the senate, 1 of whom shall be the senate chair of the joint committee on higher education, 1 of whom shall be the senate chair of the joint committee on public safety and 1 of whom shall be a member of the minority party who shall be appointed by the minority leader; provided, however, that 1 member of the senate shall be designated as co-chair of the commission; 3 members of the house of representatives, 1 of whom shall be the house chair of the joint committee on higher education, 1 of whom shall be the house



7 chair of the joint committee on public safety and homeland security and 1 of whom shall be a member of  
8 the minority party who shall be appointed by the minority leader; provided, however, that 1 member of the  
9 house shall be designated as co-chair of the commission; the secretary of administrative and finance or his  
10 designee; the secretary of public safety and security or her designee; the chancellor of higher education or  
11 his designee; the president of the Massachusetts Chiefs of Police Association or his designee; a  
12 representative of the Massachusetts Police Association; the president of the Massachusetts Municipal  
13 Association or his designee and 1 person to be appointed by the governor who shall have expertise in the  
14 field of criminal justice.

15 (b) The organizational session of the commission shall be convened by the co-chairs not later than  
16 60 days after the effective date of this act whether or not the governor's designee has been appointed.

17 (c) The special commission shall make an investigation and study of the status of the career  
18 incentive pay program established in section 108L of chapter 41 of the General Laws including, but not  
19 limited to: (1) an assessment of the number of police officers with higher education degrees; (2) an  
20 investigation of salaries paid to officers utilizing the incentive program as compared with neighboring  
21 states' police officers' salaries and incentive programs; (3) an assessment of the impact the career incentive  
22 pay program established in said section 108L of said chapter 41 has had on decreasing the number of  
23 lawsuits against police officers and municipalities; (4) the cumulative cost to state and local governments in  
24 terms of increased operating costs for wages and impact on state and municipal pension liability; (5) an  
25 assessment of the current incentives provided to officers and a determination of how wages for officers  
26 with higher education degrees would be affected without the incentive program; (6) the impact of requiring  
27 a higher education degree for all police officers as a job requirement; (7) a comparison of the wage benefits  
28 conferred by the incentive program with the increase in earning power expected to be experienced by all  
29 persons in the commonwealth as a result of higher educational attainment; (8) what is an appropriate role  
30 for the commonwealth in the future of the career incentive pay program; and (9) any other matters that the  
31 commission considers relevant to its purpose.

32 (d) The board of higher education and the executive office of public safety and security shall  
33 provide staff and other resources as the commission, said board and said office consider appropriate. The  
34 special commission shall make its final report and recommendations, together with drafts of legislation  
35 necessary to implement those recommendations, by filing the same with the joint committee on public  
36 safety and homeland security not later than January 1, 2011; provided, however, that the special  
37 commission may make such interim reports as it considers appropriate.

#### **Statutory Carry Forward**

1 SECTION 144. Notwithstanding section 5C of chapter 29 of the General Laws to the contrary,  
2 amounts made available to be used as revenue in the 2011 fiscal year in accordance with clause (a) of said  
3 section 5C of said chapter 29 shall be made available in the General Fund. To the extent balances in the  
4 General Fund are insufficient, the remainder shall be made available proportionally from the other  
5 budgetary funds.

#### **Reliability on Cape Cod**

1 SECTION 145. The department of public utilities shall, within 120 days after the effective date of  
2 this act, complete a cost analysis report evaluating all technically-feasible supply and demand proposals  
3 capable of ensuring electricity reliability on Cape Cod. The analysis shall include proposals to reduce or  
4 eliminate existing uplift charges imposed upon ratepayers in the Southeastern Massachusetts Reliability  
5 Region as defined by ISO New England, Inc. The report shall include, but not be limited to, a cost  
6 comparison of any technically-feasible proposal including transmission improvements, demand-side  
7 management programs, the health and environmental impacts of energy alternatives, repowering of existing  
8 power generation units in the Southeastern Massachusetts Reliability Region and the development of new  
9 peaking generation facilities.

#### **Shared Services for Executive Office II**

1 SECTION 146. The administration shall report to the clerks of senate and house of representatives  
2 and the house and senate committees on ways and means not later than Dec. 31, 2010, on the total number  
3 of employees transferred or projected to be transferred in fiscal year 2011 pursuant to section 7A of chapter  
4 6A of the General Laws, the total amount of funding transferred or projected to be transferred in fiscal year  
5 2011 pursuant to said section 7A of said chapter 6A, the total projected savings for fiscal years 2011 and  
6 2012 and a plan for further implementation in said fiscal years 2011 and 2012.

#### **Tuition Retention-Due Dates for Initial Submission of 5-year Plans**

1 SECTION 147. Notwithstanding any general or special law to the contrary, the 5-year student  
2 charges plans provided under section 42 of chapter 15A and section 8A of chapter 75 of the General Laws,  
3 shall be submitted to the board of higher education and the University of Massachusetts board of trustees,  
4 as applicable, not later than March 1, 2011.

#### **Tuition Retention Waivers Study**

1 SECTION 148. Not later than October 1, 2010, the commissioner of higher education, in  
2 consultation with the secretary of education, the president of the University of Massachusetts and the  
3 presidents of the state and community colleges shall submit to the board of higher education a report that  
4 includes a review of: (1) the effectiveness of all tuition and fee waivers; (2) the merits and feasibility of  
5 changing the name of waivers to "scholarships"; and (3) the policies governing and costs related to  
6 continuing education programs. The report shall examine the extent to which these waivers are being used  
7 by the intended beneficiaries, the cost to the community colleges, the state colleges, the university of  
8 Massachusetts and the commonwealth of these waivers, and the relative benefits of maintaining these  
9 waivers as compared to providing additional support to students through the scholarship programs  
10 authorized in section 16 of chapter 15A of the General Laws. The report shall include recommendations to  
11 the board concerning the extent to which such waiver programs should be continued, modified,  
12 discontinued, or replaced by providing additional support to the state scholarship program and, further  
13 recommendations to enable campuses to alter the proportion of student charges that are represented by  
14 tuition and fees so that fees represent no more than 25 per cent of total student charges. The report shall  
15 also include any recommendations for pertinent regulatory or statutory changes. A copy of the report shall  
16 be provided to the joint committee on higher education, the house and senate committees on ways and  
17 means, the board of trustees of the University of Massachusetts, and the secretary of education at the time  
18 the report is submitted to the board of higher education.

#### **Tuition Retention-Maintaining Existing Performance Measurement Processes at Massachusetts College of Art and Design and Massachusetts Maritime Academy**

1 SECTION 149. Notwithstanding section 42 of chapter 15A to the contrary, the 5-year student  
2 charges proposals for the Massachusetts College of Art and Design and the Massachusetts Maritime  
3 Academy shall include provisions for performance measurement standards and admissions standards  
4 specific to the respective missions of Massachusetts College of Art and Design and Massachusetts  
5 Maritime Academy that are consistent with the performance measurements systems and admission  
6 standards in effect as of the passage of this act.

#### **Tuition Retention Fringe Benefits**

1 SECTION 150. (a) In this section, the following words shall have the following meanings:-  
2 "Retained tuition fringe costs", all fringe benefits for college and university employees previously  
3 paid by the commonwealth using remitted tuition, which shall, commencing fiscal year 2012, be paid by  
4 the employer college or employer university from retained tuition.

5 “State-supported courses”, courses taught by employees of a college or the university and paid for  
6 using state appropriations.

7 “State-supported tuition”, all tuition collected at public institutions of higher education for credits  
8 earned in state-supported courses.

9 (b) Notwithstanding any general or special law to the contrary, in order to implement the first year  
10 of a permanent tuition retention program for each state and community college and the university of  
11 Massachusetts, as applicable, in fiscal year 2012 each campus’s state appropriation shall be calculated by:  
12 (1) adjusting the fiscal year 2011 amount upwards, subject to appropriation, to reflect the higher education  
13 funding formula; (2) adjusting the level determined in step (1) downwards by the amount of state-supported  
14 tuition each institution remitted to the commonwealth in fiscal year 2011 and will retain in fiscal year 2012;  
15 and (3) adjusting the level determined in step (2) upwards to ensure the appropriation reflects the remitted  
16 tuition fringe costs value in fiscal year 2011, so that each campus can pay the retained tuition fringe costs  
17 on its retained tuition in fiscal year 2012.

### **Tuition Retention Impact Reporting Requirements**

1 SECTION 151. Not later than December 31, 2015, the board of higher education shall submit a  
2 report to the joint committee on higher education, the house and senate committees on ways and means and  
3 the secretary of education concerning the effect that tuition retention as established by sections 8, 9, 10, and  
4 36 of this act has had on the finances of any public institutions of higher education that voted to accept an  
5 in-state tuition retention program under section 42 of chapter 15A of the General Laws or section 8A of  
6 chapter 75 of the General Laws, as applicable, on the student enrollments at such colleges and on access  
7 thereto. The report may present specific recommendations for amending or repealing provisions of this act,  
8 shall be prepared by the board of higher education in consultation with the boards of trustees.

### **Protecting Campuses In the Event of Reduced Appropriation**

1 SECTION 152. If, as a result of the implementation of sections 8, 9, 10, and 36, the appropriation  
2 for a community college, state college or the University of Massachusetts is reduced in a fiscal year, after  
3 fiscal year 2011, such institution shall have the authority, notwithstanding any limitations in this act, to  
4 increase student charges for that fiscal year in order to recover the full amount of the reduction in its  
5 appropriation if the board of higher education or the University of Massachusetts trustees first approves the  
6 increase, as applicable. Any such increase shall be in addition to any annual increase in charges authorized  
7 under the institution’s 5-year student charges plan under section 42 of chapter 15A or section 8A of chapter  
8 75 of the General Laws as applicable.

### **Tuition Retention Local Option I**

1 SECTION 153. Notwithstanding any general or special law to the contrary, for any public  
2 institution of higher education that has voted to adopt an in-state tuition retention program under section 42  
3 of chapter 15A of the General Laws or section 8A of chapter 75 of the General Laws, as applicable, the  
4 dollar value of tuition and fee waivers authorized by statute by the board of higher education, by the board  
5 of trustees of the university of Massachusetts, by the boards of trustees of individual state colleges and  
6 community colleges and by the campuses of the university of Massachusetts shall remain at the level set in  
7 academic year 2010-2011; provided, however, that if sufficient funds are appropriated to allow for the  
8 dollar value of a particular waiver to be increased, the dollar value of the waiver shall be increased  
9 commensurately. Nothing in this section shall be considered to require the alteration, amendment or  
10 abrogation of any tuition remission policy or tuition or fee waiver program negotiated under the provisions  
11 of chapter 150E of the General Laws and contained in any collective bargaining agreement or approved for  
12 non-unit personnel by the board of higher education or the institutional boards of trustees or their  
13 designees.

14           The provisions of this section shall not apply to students who are eligible to receive a foster and  
15 adopted child tuition and fee waiver under section 19 of said chapter 15A or to students who are eligible to  
16 receive a Massachusetts National Guard tuition and fee waiver under said section 19 of said chapter 15A.

### **Tuition Retention Local Option III**

1           SECTION 154. Notwithstanding any general or special law to the contrary, no campus of a public  
2 institution of higher education that has voted to adopt an in-state tuition retention program under section 42  
3 of chapter 15A of the General Laws or section 8A of chapter 75 of the General Laws, as applicable, shall  
4 be required to honor any waiver or scholarship created after the passage of this act, whether created by  
5 legislation, by the board of higher education, by a local board of trustees, by collective bargaining or by any  
6 other method, unless an appropriation is made by the commonwealth explicitly to cover the cost of such  
7 scholarship.

### **Division of Energy Solutions II**

1           SECTION 155. The first annual report required under subsection (m) of section 12 of chapter 23J  
2 of the General Laws shall be filed not later than January 1, 2012. The rules and procedures required under  
3 subsection (l) of said section 12 of said chapter 23J shall be filed not later than December 1, 2010.

### **Aging Out of DCF II**

1           SECTION 156. Section 60 shall take effect on October 1, 2010.

### **DOR Administrative Provisions to Facilitate Collections IX**

1           SECTION 157. Section 8 shall be effective for tax years beginning on or after January 1, 2010,  
2 with respect to installment obligations as of the close of the tax year.

### **Effective Dates**

1           SECTION 158. Except as otherwise specified, this act shall take effect on July 1, 2010.